CWP-22586-2017 and
CWP-22786-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-22586-2017

Nirmal Singh and others ....Petitioners

Versus

Punjab Water Resources Management and Development Corporation Limited and others ....Respondents

2. CWP-22786-2017

Mohan Lal and another ....Petitioners

Versus

Punjab Water Resources Management and Development Corporation Limited and others .....Respondents

Date of decision: - 29.01.2020

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. V.K. Kaushal, Advocate,
for the petitioners.

Mr. Aman Sharma, Advocate
for respondents No.1, 2, 3, 5 and 6.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

By this order, above-mentioned two Civil Writ Petitions are being disposed of in the light of common question of law and similar facts involved. For the sake of convenience, the facts are being extracted from CWP-22586-2017 titled as 'Nirmal Singh and others Vs. Punjab Water Resources Management and Development Corporation Limited and others'.

The grievance in the present writ petition is qua the order dated 09.05.2017 (Annexure P-9) by which, the claim of the petitioners for the grant of interest on the delayed release of the pensionary benefits has been declined. The prayer of the petitioners is that as there is an inordinate delay in the release of their pensionary benefits, they are entitled for interest so as to be compensated for the said delay.

As per the averments made in the writ petition, petitioners retired on attaining the age of superannuation on different dates starting from the year 2012 onwards till March, 2015. The grievance of the petitioners is that as there is unexplained and unreasonable delay in the release of the pensionary benefits of the petitioners, petitioners are entitled for the benefit of interest on those delayed payments.

Upon notice of motion, respondents have filed the reply by way of an affidavit of the Managing Director of the respondent-Corporation.

In the reply, the respondents have given the different dates on which the payments were released to the petitioners. The same are reproduced as under:-

"Petitioner No.1 Sh. Nirmal Singh retired on 31.01.2015

Sr. No.	Head of Payment	Amount Due	Amount Paid	Remarks
1	Gratuity	₹7,34,008	₹734,008/vide Cheque No.126454 Dated 10.08.2015	₹12,07,360/- paid in total
2	Revised Gratuity	₹47,704	₹47,704/vide Cheque No.136150 Dated 23.02.2016	
3	Revised Gratuity	₹17,968	₹17,968/vide Cheque No.151304 Dated 12.08.2016	
4	Leave Encashment	₹3,74,200	₹3,74,200/vide Cheque No.126454 Dated 10.08.2015	
5	Revised Leave Encahsement	₹24,320	₹24,320/-vide Cheque No.136150 Dated 23.02.2016	

6	Revised Leave Encashment	₹9,160	₹9,160/vide Cheque No.151304 Dated 12.08.2016	
	Total	**₹12,07,360/**	**₹12,07,360/-**	

Petitioner No.2 Sh. Prabh Singh retired on 31.05.2012

Sr. No.	Head of Payment	Amount Due	Amount Paid	Remarks
1	Gratuity	₹5,21,091	₹5,21,091/vide Cheque No.067224 Dated 25.06.2013	
2	Revised Gratuity	₹11,178	₹11,178/vide Cheque No.151307 Dated 12.08.2016	
3	Leave Encashment	₹2,45,707	₹2,45,707/vide Cheque No.100608 Dated 11.07.2017	**₹8,61,769/-** paid in total
4	Revised Leave Encahsement	₹76,873	₹76,873/-vide Cheque No.114514 Dated 02.01.2015	
5	Revised Leave Encashment	₹6,920	₹6,920/vide Cheque No.151307 Dated 12.08.2016	
	Total	**₹8,61,769/-**	**₹8,61,769/-**	

“Petitioner No.3 Sh. Baldev Raj retired on 31.03.2015

Sr. No.	Head of Payment	Amount Due	Amount Paid	Remarks
1	Gratuity	₹6,18,923	₹6,18,923/vide Cheque No.126483 Dated 03.09.2015	
2	Revised Gratuity	₹40,223	₹40,223/vide Cheque No.136151 Dated 23.02.2016	
3	Revised Gratuity	₹15,491	₹15,491/vide Cheque No.151308 Dated 12.08.2016	**₹10,64,427/-** paid in total
4	Leave Encashment	₹3,57,600	₹3,57,600/vide Cheque No.126483 Dated 03.09.2015	
5	Revised Leave Encahsement	₹23,240	₹23,240/-vide Cheque No.136151 Dated 23.02.2016	
6	Revised Leave Encashment	₹8,950	₹8,950/vide Cheque No.151308 Dated 12.08.2016	
	Total	**₹10,64,427/-**	**₹10,64,427/-**	

“Petitioner No.4 Sh. Ram Pratap retired on 31.01.2015

Sr. No.	Head of Payment	Amount Due	Amount Paid	Remarks
1	Gratuity	₹8,40,738	₹8,40,738/vide Cheque No.126451 Dated 10.08.2015	
2	Revised Gratuity	₹81,624	₹81,624/vide Cheque No.136149 Dated 23.02.2016	
3	Leave Encashment	₹4,04,800	₹4,04,800/vide Cheque No.126451 Dated 10.08.2015	**₹13,66,462/-** paid in total
4	Revised Leave Encahsement	₹39,300	₹39,300/-vide Cheque No.136149 Dated 23.02.2016	
	Total	**₹13,66,462/-**	**₹13,66,462/-**	

Further, in the reply, the respondents have admitted that there is a delay in the release of the pensionary benefits, but the same was due to the correspondence, which was being conducted with the audit department, for the grant of approval for the release of pensionary benefits. It has been stated that the delay is neither intentional nor deliberate, but the same is due to the procedure, which is to be followed for the release of the pensionary benefits. The relevant paragraph No.3 of the reply is as under: -

> "That it is respectfully submitted here that as mentioned supra, all the retiral benefits of the petitioner has been released by the office of the answering respondents. However, it is pertinent to mention here that delay in releasing some of the amounts of the petitioners was due to the correspondence to conduct the audit for the approvals. The delay in releasing the payments is neither intentional nor deliberate and the same has occurred in view of the fact that the office of the answering respondent entirely depends upon the State Government for funds as the Corporation has no funds of its own. As and when the funds are received from the State Government, the office of the answering respondent immediately pays the retiral dues to its retires on priority basis."

I have heard learned counsel for the parties and have gone through the record with their able assistance.

From the facts, which have been stated above, it is clear that there is a delay in the release of the pensionary benefits of the petitioners and the same already stands admitted by the respondents. The only reason given by the respondents for denying the interest on the delayed payments is that the delay was not intentional or deliberate, but the same was due to the correspondence, which was being done by the respondents with the Audit Department for seeking approval for the release of the pensionary benefits. The reason which is being advanced for denying the interest makes it clear that the delay was only attributable to the respondents. It was the duty of the respondents to take appropriate approval within a reasonable time after the retirement of the employees so that the retiral benefits are released within reasonable time.

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others**, **1997(3) SCT 468,** wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits, is to be released within a reasonable time and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement. This Court in **A.S. Randhawa's case (supra)** has further held that in case, retiral benefits have been retained by the respondents for more than two months and that too without any justifiable reason, the employee will be entitled for interest on the delayed release of retiral benefits. The relevant paragraph of the said judgment is as under: -

> "Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him

> interest for the period of delay on the amount as was due to him on the date of his retirement."

In the present cases, the delay in release of pensionary benefits is more than two months and therefore, the claim of the petitioners is squarely covered for the grant of interest as per the law laid down by the Full Bench of this Court in **A.S. Randhawa' case (supra)**.

A Co-ordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

> "The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

Learned counsel for the respondents is unable to differentiate the case of the petitioners from the law laid down by this Court in **A.S. Randhawa' case (supra)** and **J.S. Cheema's case (supra)**. Nothing has been pointed out to show that there was any impediment in the release of the pensionary benefits or the benefits were released within a reasonable time of two months after the retirement and therefore, the case of the petitioners is covered by the law laid down by this Court in **A.S. Randhawa's case (supra)** and **J.S. Cheema's case (supra)**.

Further, the similarly situated employees approached this Court against the respondent-Corporation for the release of the pensionary benefits alongwith interest on the delayed release of the pensionary benefits. This Court in the case of similarly situated employees, while deciding **CWP No.20201 of 2014** titled as '**Darshana Devi and others** Vs. **Punjab Water Resources Management & Development Corporation Limited and another**, **on 08.04.2015,** directed the respondent-Corporation to release the pensionary benefits alongwith interest @ 7% per annum. The relevant paragraph of the said judgment is as under: -

> "It is, further, not disputed by the learned counsel for the respondents, that the amounts which the petitioners are claiming as gratuity and leave encashment, are actually due to them. Hence, nothing further survives in these petitions, as only the rate of interest on delayed payment was the bone of contention, the principal amount already having been paid earlier.
>
> Consequently, this petition, as also other connected matters aforementioned, are disposed of with a direction to the respondents to pay interest @ 7% per annum on delayed payment of leave encashment to all the petitioners, which will be payable from the date of their retirement till the date that the actual payment was made, of the principal amount. Delayed payment of gratuity would be governed by the rates of interest as provided in the Payment of Gratuity Act, 1972."

Keeping in view the above, the present writ petitions are allowed. Petitioners are held entitled for interest @ 7% per annum as granted by this Court in an earlier decision relating to the same

Corporation. The interest shall be calculated from the day when the petitioners became entitled for the release of the amount of pensionary benefits till the actual payments were released to them.

Let the calculation be done within a period of two months from the date of receipt of a certified copy of this order and the actual payment shall be released to the petitioners within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

January 29, 2020
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Whether reasoned/speaking? Yes
Whether reportable? Yes