IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-27403 of 2016
Date of decision: 19.02.2020

Gursham Rehal .... Petitioner

versus

State of Punjab and another ... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shyam Kumar Sharma, Advocate
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

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HARSIMRAN SINGH SETHI, J.

In the present writ petition, the grievance raised by the petitioner is that his claim for the grant of interest has been denied by the respondents initially vide order dated 20.02.2015 (Annexure P/5) and thereafter, again vide order dated 30.04.2015 (Annexure P/8) which is contrary to the settled principles of law. Prayer of the petitioner is for issuance of a direction to the respondents to release the interest on the delayed release of payments of gratuity, which were released to the petitioner in month of November/December 2014.

The facts as stated in the writ petition are that the petitioner initially joined as Sub Divisional Officer on 05.06.1977 and ultimately retired as Senior Design Engineer/Executive Engineer on attaining the age of superannuation on 31.07.2008. On the date of retirement of the petitioner, a charge sheet dated 01.04.2004 was pending against him and the said charge sheet remained pending upto 05.07.2013, when the proceedings in respect of the said charge sheet were finalised by the respondents and punishment of 2% cut in pension for a period of one year was imposed upon him. After the finalisation of the enquiry proceedings, the respondents issued pension payment order for the release of gratuity on 09.07.2014 and, ultimately, the gratuity was deposited in the account of the petitioner in two instalments on 27.11.2014 and 30.12.2014. After the deposit of the said amount, petitioner raised a claim for the grant of interest on the delayed release of gratuity. The said claim was declined by the respondents initially on 20.02.2015 (Annexure P/5) and thereafter (while replying to legal notice served by the petitioner on 06.04.2015) on 30.04.2015 (Annexure P/8). Both the rejection orders are under challenge before this Court in the present writ petition.

Upon notice of motion, the respondents have filed reply. In the reply, a stand has been taken by the respondents that as the disciplinary proceedings were pending against the petitioner on the date of his retirement, the respondents were well within their jurisdiction to withhold the gratuity of the petitioner and after the proceedings were over in July, 2013, the payment of gratuity was released in favour of the petitioner on 09.07.2014 and amount was deposited in his account in November/December 2014. The claim of the petitioner for grant of interest to the petitioner on the delayed release of payment of gratuity is being contested.

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

It is a matter of fact that at the time of retirement of the petitioner on 31.7.2008, a charge sheet dated 01.04.2004 was pending against him and keeping in view the provisions of Punjab Civil Services Rules, 1970, the respondents were well within their jurisdiction to withhold the gratuity amount. The charge sheet dated 01.04.2004 was taken to its logical end and a penalty of 2% cut in pension for a period of one year was imposed upon the petitioner vide order dated 05.07.2013. Learned counsel for the respondents has not been able to place anything on record that after 05.07.2013, there was any impediment in the release of payment of gratuity, for which the petitioner became entitled after his retirement. Once there was no impediment in the release of gratuity after 05.07.2013, the same could have been released by the respondents within a reasonable time after the completion of enquiry proceedings. Respondents have released the gratuity after approximately more than one year and four months of the completion of enquiry proceedings. No justification has been given, as to why, the respondents had taken so long for releasing the payment of gratuity despite there being no impediment in the release of the same.

A Full Bench of this Court in **A.S. Randhawa vs. State of Punjab 1997(3) S.C.T. 468** has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement and the reasonable time fixed by the Full Bench is two months. Relevant paragraph of the 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 front 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."

Keeping in view the directions given by the Full Bench of this Court in **A.S. Randhawa's case (supra),** the respondents were under an obligation to release the gratuity to the petitioner within a reasonable time after the impediment was over. In the present case, the enquiry proceedings came to an end on 05.07.2013, whereas the gratuity amount was released on 27.11.2014 and 30.12.2014, which is beyond the reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, and, therefore, the petitioner needs to be compensated for the said delay in release of the payment of gratuity by way of grant of interest.

A Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355*** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the judgement 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.”

Keeping in view the settled principles of law as stated above, the petitioner is held entitled for grant of interest on the delayed payment of gratuity @ 9% per annum from 01.10.2013 till the payments were actually released in favour of the petitioner.

Let computation of the interest, for which the petitioner is entitled under this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.

The petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

19.02.2020.
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No