228 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.27926 of 2017 (O&M)
Date of decision : February 12, 2020

Amrit Lal Singla .... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. .... Respondent

2. CWP No.2585 of 2018 (O&M)

Sat Pal .... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. .... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. J.P. Rana, Advocate for the petitioner.

Mr. Sumeet Puri, Advocate for the respondent.

<u>HARSIMRAN SINGH SETHI J. (ORAL)</u>

By this common order, both the writ petitions, details of which have been given in the heading of this order, are being decided as both the writ petitions involve the same question of law and similar facts. For the purpose of this order, the facts are being taken from CWP No.27926 of 2017.

The claim of the petitioner is for the grant of interest on the delayed release of the pensionary benefits.

As per facts mentioned in the writ petition, the petitioner while in service was suspended on 09.11.2015. The petitioner continued to remain under suspension till he was reinstated on 08.04.2016, subject to outcome of the pending inquiry against him. In fact, it is a case of the petitioner that no charge-sheet was ever served upon him and he was suspended on the basis of an unanimous complaint. While the said complaint remained under investigation, the petitioner retired on attaining the age of superannuation on 31.07.2016. Though, the petitioner was allowed to retire but his pensionary benefits were withheld due to the pendency of the said complaint.

As the pensionary benefits of the petitioner were not released to him and there was no charge-sheet served upon him and the pensionary benefits were withheld by the respondents on the basis of a complaint, the petitioner approached this Court by filing CWP No.7469 of 2017, which was disposed of by this Court vide order dated 07.04.2017, directing the respondents to consider the claim of the petitioner for the release of the pensionary benefits by passing appropriate orders on the representations, which the petitioner had submitted for the release of the pensionary benefits.

Keeping in view the directions given by this Court in CWP No.7469 of 2017 on 07.04.2017, the respondents passed an order on 19.06.2017 (Annexure P-12) directing the release of the pensionary benefits of the petitioner and regularizing the suspension period of the petitioner as a duty period for the release of the pensionary benefits.

Keeping in view the order dated 19.06.2017 (Annexure P-12), passed by the respondent-Corporation, the order was passed on 26.05.2017 for releasing the payment of ₹17,25,770/- on account of his retiral benefits (gratuity of ₹10,00,000/- + Leave encashment of ₹7,25,770/-. These benefits were released to the petitioner on 19.09.2017 and 13.10.2017 i.e. in two installments.

Prayer of the petitioner is that as the retiral benefits of the petitioner were wrongly withheld by the respondents, the petitioner is entitled for the interest. The present writ petition has been filed by the petitioner for claiming the interest on the delayed release of pensionary benefits.

Upon notice of motion, respondents have filed reply. In the reply, the respondents have stated that there was a complaint, which was pending against the petitioner at the time of his retirement and as nothing was found in the complaint, appropriate order was passed on 19.06.2017 (Annexure P-12) for release of the pensionary benefits after the said complaint was filed and therefore, as respondent-Corporation had a valid justification in withholding the pensionary benefits, the petitioner is not entitled for the interest.

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

In the present case, no charge-sheet has been placed on record, which was ever served upon the petitioner before his retirement. The only justification for not releasing the pensionary benefits is that a unanimous complaint which was filed before the Vigilance Department and was pending against the petitioner at the time of his retirement. Once, there was no charge-sheet issued to the petitioner before the retirement, there was no justification or jurisdiction with the respondent-Corporation to withhold the pensionary benefits of the petitioner after his retirement. It is only in case there are disciplinary proceedings pending against an employee, at the time of his retirement, the pensionary benefits of an employee can be withheld.

But, in the present case, once, there was no charge-sheet ever served upon the petitioner, the respondents acted beyond their jurisdiction in withholding the pensionary benefits of the petitioner.

Further, nothing was found in the complaint even and ultimately, the same has been filed by the respondents after which the respondents passed an order on 19.06.2017 (Annexure P-12) directing the release of the pensionary benefits of the petitioner. Once, nothing was found against the petitioner even in the complaint, it is clear that there was no valid justification with the respondents to withhold the pensionary benefits of the petitioner.

As per the settled principle of law as settled by the Full Bench of this Court in case of ***"A.S. Randhawa Vs. State of Punjab and others,1997(3) SCT 468"***, 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 after retirement in case there is no impediment and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents beyond the said period of two months and that too without any justifiable reason, the employee will be entitled for interest. 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."*

From the facts and circumstances of this case, there was no impediment in the release of the pensionary benefits of the petitioner and the complaint pending against the petitioner cannot be treated as a disciplinary proceeding to give jurisdiction to the respondents to withhold the pensionary benefits. That being so, the case of the petitioner is fully covered under the judgment of the Full Bench 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."*

The claim of the petitioner for grant of interest in the present writ petition is squarely covered by the decision of the Full Bench of this Court in case of ***A.S. Randhawa***(*supra*) and by the case of ***J.S. Cheema*** (*supra*). Therefore, the petitioner is held entitled for the grant of interest on the delayed release of pensionary benefits.

Even in CWP No.2585 of 2018, no justification has been given by the respondents to withhold the pensionary benefits of the petitioner therein except that No Dues Certificate was received late due to which the benefits were withheld.

Learned counsel for the petitioner states that the petitioner therein has already given an undertaking that the petitioner will not claim interest till No Dues Certificate was issued.

The petitioner in CWP No.2585 of 2018 retired from service on attaining the age of superannuation on 30.04.2016 and it was the duty of the respondents to obtain the No Dues Certificate before the retirement or within a reasonable time after the retirement but the release of the pensionary benefits cannot be delayed beyond reasonable time fixed by this Court in ***A.S. Randhawa's*** case (*supra*). The reasonable time has been fixed to complete the formalities after the retirement and in case, those are not completed by the respondents, then respondents are liable to pay the interest as compensation. Therefore, the petitioner in CWP No.2585 of 2018 is also entitled for interest on the amount, which became due upon his retirement on 30.04.2016 as per settled principle of law in ***A.S. Randhawa***(*supra*) and the case of ***J.S. Cheema*** (*supra*).

In view of the above, both the aforesaid writ petitions are allowed and the petitioners in both the writ petitions are held entitled for the grant of interest @ 9% per annum on the amount of the pensionary benefits, from the date it became due till the release of the same.

Let the interest under this order be calculated by the respondents within a period of two months from the date of receipt of certified copy of this order and the amount so calculated will be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

February 12, 2020
sarita

Whether speaking / reasoned	Yes
Whether Reportable:	Yes