236 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.28548 of 2017 (O&M)
Date of decision : March 03, 2020

Kulwant Singh .... Petitioner

Versus

State of Punjab and others .... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Onkar Rai, Advocate for the petitioner.

Ms. Anju Arora, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, petitioner is claiming the release of his gratuity amount along with interest as well as the interest on the delayed payment of leave encashment.

As per the averments made in the writ petition, the petitioner retired from service on attaining the age of superannuation on 30.06.2016 and on that day, there were no proceedings pending either departmental or before any competent Court of law against the petitioner, which would entitle the respondents to withhold the pensionary benefits of the petitioner. The petitioner has stated in the writ petition that without there being impediment in the release of the pensionary benefits, the amount of leave encashment was released to the petitioner on 17.05.2017 i.e. approximately after one year of his retirement. The petitioner has further stated that the gratuity amounting to ₹7,06,085/- is yet to be released by the respondents and therefore, a direction be issued to the respondents to release the same along with interest.

Learned counsel for the petitioner states that during the pendency of the present writ petition, the amount of gratuity has been released to the petitioner on 07.07.2018. The claim of the petitioner, which survives in this writ petition is for the grant of interest on the delayed release of the pensionary benefits.

Upon notice of motion, respondents have filed the reply. In the reply, respondents have stated that though, there is a delay but the same was not intentional but a procedural one.

Learned counsel for the respondents argues that though the PPO was issued in favour of the petitioner but certain objections were raised by the Treasury before releasing the payment and therefore, the delay in the release of the payment is not intentional but procedural, therefore, the petitioner is not entitled for the grant of interest on the delayed payment of pensionary benefits.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It is admitted by the learned counsel for the respondents that there was no impediment in the release of the pensionary benefits of the petitioner when he attained the age of superannuation and retired from service on 30.06.2016. That being so, the respondents were under obligation to release the pensionary benefits of the petitioner within a reasonable time as fixed by the Full Bench of this Court in ***"A.S. Randhawa Vs. State of Punjab and others,1997(3) SCT 468"*** and it has been held that the amount for which an employee becomes entitled as retiral benefits is to be released within a reasonable time after retirement 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."*

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."*

In the present writ petition, the claim of the petitioner for grant of interest on the delayed release of pensionary benefits 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*). The retiral benefits of the petitioner were retained by the respondents without there being any impediment and the delay in the release of the pensionary benefits is beyond the reasonable time fixed by the Full Bench of this Court in case of ***A.S. Randhawa***(*supra*). Nothing has been placed on the record to show that the petitioner was responsible for the delay in the release of the benefits in any manner rather, the respondents in their reply have admitted that the delay is on their part but are trying to escape the liability of paying interest by terming the same as procedural one and unintentional. This plea cannot be accepted as the delay has already caused prejudice to the petitioner. Therefore, keeping in view the principle settled by the Full Bench of this Court in case of ***A.S. Randhawa***(*supra*), the petitioner is to be compensated for the grant of interest on the delayed release of pensionary benefits.

In view of the above, the present writ petition is allowed and the petitioner is held entitled for the grant of interest @ 9% per annum from the date the amount 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

March 03, 2020
sarita
Whether speaking / reasoned Yes
Whether Reportable: Yes