

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(216)

CWP No. 4994 of 2017

Date of Decision : 11.02.2020

Gurmel Singh Mohie

....Petitioner

Versus

Punjab State Cooperative Supply and Marketing Federation Limited

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. Shallie Mahajan, Advocate for
Mr. Sharwan Sehgal, Advocate for the petitioner.

Mr. Naresh Gopal Sharma, Advocate for
Mr. Mehardeep Singh, Advocate for the respondent.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the claim raised by the petitioner is that release of his pensionary benefits were delayed by the respondents by more than 12 years and the delay was attributable to the respondents only and, therefore, he is entitled for interest on the delayed payments.

As per the facts mentioned in the writ petition, petitioner was appointed in the Markfed on 11.04.1969. He attained the age of superannuation on 31.05.2005 while working as a Field Officer. At the time of the retirement, a charge-sheet was pending against the petitioner, which was issued to him on 25.07.2000 and the allegation in the charge-sheet was that the petitioner has caused loss to the tune of ₹42,69,448/- to the Markfed due to the shortage of the paddy for the crop year 1994-1995. In this regard, supplementary charge-sheet was issued on 30.04.2002, wherein the loss was enhanced to ₹84,37,763/-. Though, the petitioner retired but his pensionary

benefits were withheld by the respondents. By order dated 20.06.2005 (Annexure P-2) having endorsement dated 15.07.2005, petitioner was held guilty and was imposed punishment of the recovery of ₹84,37,763/- and further, his pay was reduced by three stages in the time scale for calculating his retiral dues. Against the said order, petitioner filed an appeal before the appellate authority. Appellate authority keeping in view the decision taken in the meeting held on 08.05.2015 set-aside the order dated 15.07.2005 imposing punishment. After the punishment was set-aside, petitioner became entitled for the release of his pensionary benefits. Prayer of the petitioner in the present writ petition is that his pensionary benefits, which were withheld due to the above said circumstances, be released as now there is no impediment in the release of the same.

Upon notice of motion, respondent has filed the reply. In the reply, it has been stated that a sum of ₹2,02,147/- was already paid to the petitioner on 01.11.2009 and thereafter, all the benefits such as leave encashment, arrears of pay and gratuity have already been released to the petitioner. Learned counsel for the respondent further states that all the benefits for which the petitioner is entitled, have already been released.

Learned counsel for the petitioner admits that the pensionary benefits have already been released to the petitioner during the pendency of the writ petition but he claims interest on the delayed release of the benefits. Learned counsel for the petitioner argues that once the petitioner was not at fault and it was only due to the imposition of punishment dated 15.07.2005, the retiral benefits were withheld and as the said punishment has already been withdrawn by the respondents, the delay is attributable to the respondents only, for which the petitioner needs to be compensated by way

of interest.

Learned counsel appearing on behalf of the respondent-Markfed argues that once there were proceedings pending against the petitioner and there was a punishment, which was only withdrawn in July, 2015, petitioner is not entitled for the release of interest as the amount was withheld under a valid justification.

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

The facts stated above are not in dispute. It is not in dispute that the petitioner was imposed punishment immediately after his retirement, where the petitioner was held liable for the recovery of ₹84,37,763/- Once that be the position, the respondents were within their right not to release the pensionary benefits, which amount was less than the amount, which was to be recovered from the petitioner keeping in view the punishment imposed. But after the punishment of recovery was withdrawn by the respondents on an appeal preferred by the petitioner by passing the order dated 16.07.2015, there remained no impediment in the release of the pensionary benefits of the petitioner. Further, once the punishment was withdrawn, it can be said that the allegations alleged against the petitioner were not correct and the petitioner was caused prejudice by the act of the respondents so as to not been able to use his retiral benefits to his advantage for a period of more than 12 years after his retirement. As the petitioner has been found innocent though, the benefits have already been released but petitioner needs to be compensated for the delay for which the Markfed is held liable.

A Co-ordinate Bench of this Court in *J.S. Cheema Vs. State of*

Haryana, 2014(13) RCR (Civil) 355, has held that where an amount belonging to an employee has been retained and used by the department, employee becomes entitled for interest. The relevant paragraph of the said judgment 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 case, the amount of retiral benefits for which the petitioner was entitled for immediately upon his retirement on 31.05.2005, have been retained and used by the respondents for more than 12 years, therefore, petitioner is entitled for interest keeping in view the law laid down by **J.S. Cheema's case (supra)**. Accordingly, the claim of the petitioner for interest on the delay in release of pensionary benefits is allowed. He is held entitled for interest @ 9% per annum from the date the amount became due till the same is released. Let the computation of interest be done by the respondents within a period of three months from the date of receipt of certified copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

Writ petition is allowed in above terms.

February 11, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? Yes