221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3696 of 2018 (O&M)
Date of decision : February 27, 2020

Ram Dass .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Shashi Bhushan Nagpal, Advocate for the petitioner.

Ms. Devki Anand Sullar, AAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the petitioner is claiming interest on the delayed release of the pensionary benefits by placing reliance upon the judgment of the Full Bench of this Court in ***"A.S. Randhawa Vs. State of Punjab and others,1997(3) SCT 468".***

As per the averments made in the present writ petition, the petitioner retired from service of the respondent-Department on 30.06.2017. When the petitioner retired from service, there were no proceedings pending against him, which would entitle the respondents to withheld the pensionary benefits of the petitioner.

The contention raised on behalf of the petitioner is that the retiral benefits were released to the petitioner in March, 2018 and as there is a delay of approximately nine months in the release of the pensionary benefits, which delay is not reasonable and is also without any valid justification, therefore, the petitioner is entitled for the grant of interest on the said delayed payment.

Upon notice of motion, respondents have filed the reply. In the reply, the respondents have admitted the delay but the said delay has been attributed to the Treasury. The relevant paragraph of the reply is as under:-

> *"3. The following chart makes the clarity as regards the payments released to the petitioner till now.*

Nature of Claim	***Amount***	***Bill Submitted to treasury***	***Date of payment by treasury***	***Remarks***
G.P.F.	*100790*	*13.09.2017*	*16.03.2018*	*Delay on the part of defendant No.5.*
Leave encashment	*327424*	*19.07.2017*	*16.03.2018*	*Delay on the part of defendant No.5.*
D.C.R.G.	*643154*	*19.07.2017*	*15.03.2018*	*Delay on the part of defendant No.5.*

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

It is admitted by the respondents that at the time when the petitioner retired from service on 30.06.2017, there were no proceedings pending against him, which would entitle the respondents to withhold his pensionary benefits. Further, nothing has been mentioned in the reply as to why the release of pensionary benefits of petitioner was delayed. In the absence of any valid justification, the delay is clearly attributable to the respondents themselves.

The Administrative Department i.e. Department of Education, has shifted the burden of delay on the Treasury to escape its liability, which cannot be permitted. The Treasury is only an agent to release the pensionary benefits on behalf of Administrative Department. The duty to release the pensionary benefits is of the Administrative Department, where the employee had rendered services. The Administrative Department has to ensure that the amount of the retiral benefits is released to the employee within a reasonable time after the retirement. In case of failure, though the delay might have occurred at the end of Treasury but as the Treasury is agent of the Administrative Department, the Administrative Department is liable for the said delay.

The Full Bench of this Court in ***A.S. Randhawa's*** case (*supra*) has held that an employee is entitled for the release of the pensionary benefits within a reasonable time after the retirement, in case there is no impediment. The reasonable time fixed by the Full Bench is two months after the retirement and in case of failure, the employee is held entitled for the grant of interest as a matter of compensation. 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."*

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*). The delay in the present case is much beyond the reasonable period of two months fixed by the Full Bench in case of ***A.S. Randhawa***(*supra*) and therefore, the petitioner is held entitled for the grant of interest on the delayed release of pensionary benefits. The claim of the petitioner is allowed and he 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.

The present writ petition is allowed in the abovenoted terms.

(HARSIMRAN SINGH SETHI)
JUDGE

February 27, 2020
sarita
Whether speaking / reasoned Yes
Whether Reportable: Yes