216 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7901 of 2017 (O&M)
Date of decision : February 13, 2020

Gurmit Singh .... Petitioner

Versus

State of Punjab and others .... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. G.K. Hundal, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. Vijay Kumar Kaushal, Advocate for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

Reply filed on behalf of respondent No.2 in the Court today, is taken on record.

Learned counsel for the petitioner states that the petitioner has retired on attaining the age of superannuation on 31.05.2016 and on that day, the petitioner was working as a Fitter, which is a Class-III post.

It has been averred in the present writ petition that though, there was no impediment in the release of the pensionary benefits of the petitioner but the same were no released by the respondents within a reasonable time, which caused great financial hardship to him after his retirement. As all the pensionary benefits were not released to the petitioner by the respondents, the petitioner has approached this Court seeking a direction to the respondents to release his pensionary benefits alongwith interest for the delay in the release.

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Upon notice of motion, respondents have filed the reply. In the reply, the respondents have stated that all the pensionary benefits have already been released to the petitioner. As per the respondents, the pension and commutation of pension were being paid to the petitioner regularly after the same was sanctioned on 03.10.2016 and the arrears have already been released to him in that regard. The respondents have further stated that the leave encashment was released to the petitioner on 08.12.2016, provident fund was released on 09.01.2017, the gratuity and GIS amount were released in May, 2017. No justifiable reason has been given by the respondents in their reply as to why, the pensionary benefits for which the petitioner was entitled immediately upon his retirement, were released after undue delay. The reason which has been given by the respondents is that the payments could not be released to the petitioner due to the lapse of the budget and immediately in the next financial year, the payments of the retiral benefits were released to the petitioner and therefore, the delay in release of the pensionary benefits was procedural and beyond the control of the respondents.

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

The delay in releasing the pensionary benefits of the petitioner has been admitted by the respondents in their reply. Further, it has been admitted by the respondents that there was no proceeding, which was pending against the petitioner, which would have given the jurisdiction to the respondents to withhold his pensionary benefits. The only reason given to extend the delay is that budget had lapsed due to which the payments

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could not be released to the petitioner within a reasonable time after his retirement. The burden of releasing the pensionary benefits within a reasonable time lies upon the Administrative Department. The arranging of funds for the said payments is also upon the Administrative Department. Once, the Department knew that the petitioner is going to retire, it was incumbent upon the respondents to make sure that the payments of the retiral dues are released to the retired employee within a reasonable time of the retirement so that the retired employee can lead a dignified life as enshrined under Article 21 of the Constitution of India. The deprivation of the pensionary benefits leads to the financial difficulties which are unimaginary.

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 as 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*

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> *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."*

In the present case, there was no impediment in the release of the pensionary benefits of the petitioner and therefore, he was entitled for the release of his pensionary benefits immediately upon his retirement or within a reasonable period, but the respondents failed to do so, hence, the petitioner is entitled for interest on the delay of release of pensionary benefits. The case of the petitioner is fully covered under the guidelines as envisaged 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*

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> *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 above, 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 present writ petition is allowed and the petitioner is 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 to the petitioner.

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 13, 2020
sarita
Whether speaking / reasoned Yes
Whether Reportable: Yes

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