**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CWP-9279 of 2018**
**Date of decision: 24.02.2020**

Avtar Singh .... Petitioner

versus

State of Punjab and others ... Respondents

**CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Sunny Singla, Advocate
for the petitioner.

Ms. Devki Anand Sullar, AAG, Punjab.

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**HARSIMRAN SINGH SETHI, J.**

In the present writ petition, the claim of the petitioner is that the retiral benefits of the petitioner were released by the respondents after an unreasonable delay and, therefore, the petitioner needs to be compensated by way of grant of interest in view of the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa vs. State of Punjab 1997 (3) S.C.T. 468.**

As per the averments made in the writ petition, the petitioner joined the respondent-department on 25.09.1987 and he continued working with the respondent-department till he retired on attaining the age of superannuation on 31.7.2017. At the time of retirement of the petitioner, no proceedings either departmental or before any competent Court of law were pending against the petitioner, which would entitle the respondents to withhold the payment of gratuity and leave encashment for which the petitioner became entitled after his retirement. Amount of provident fund of Rs.11,73,500/- was released to the petitioner on 03.02.2018, amount of leave encashment of Rs.5,76,630/- was released on 19.03.2018 and amount of gratuity of Rs.8,36,114/- was released on 19.03.2018. The claim of the petitioner is that as the delay in releasing the pensionary benefits is attributable to the respondents, therefore, the petitioner is entitled for grant of interest for the said delay.

Upon notice of motion, the respondents have filed reply. In the reply facts as recorded above have not been disputed by the respondents. The delay has been admitted but, the same has been termed as procedural one. Relevant paragraph of the reply is as under:-

> "That the amount of GPF amounting to Rs.11,73,500/- was paid on 3.2.2018, leave encashment amounting to Rs.5,76,630/- and gratuity amounting to Rs.8,36,114/- were paid to the petitioner on 19.3.2018. It is further submitted that the above amounts were released to the petitioner immediately on the receipt of the funds from the Finance Department of Government of Punjab.
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> That some delay has occurred in making the payment of the retiral benefit to the petitioner which is neither intentional nor deliberate but the same has occurred due to lengthy departmental procedure. As such, the delay in making the payments of pensionary benefits is neither intentional nor deliberate but the same has occurred due to the reason mentioned above.
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> That in view of the above preliminary submissions, the answering respondent seeks the indulgence of this Hon'ble Court to dismiss the instant writ petition being devoid of any merit and substance."

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

It is admitted by the respondents that there is delay in releasing the pensionary benefits and the said delay is attributable to the respondents themselves as no proceedings were pending against the petitioner, which would have entitled them to withhold the amount of gratuity and leave encashment. As the delay is attributable to the respondents and the benefits were released beyond the reasonable time fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra),** the petitioner needs to be compensated by way of grant of interest.

A Full Bench of this Court in **A.S. Randhawa's case (supra),** has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement in case there is no impediment and the reasonable time fixed by the Full Bench of this Court is two months after the retirement and in failure to do so, an employee needs to be compensated by way of grant of interest. Relevant paragraph of the 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 front 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*** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the 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 delay in releasing the pensionary benefits is beyond the reasonable time of two months as fixed by the Full Bench and the said delay is attributable to the respondents only, therefore, the petitioner needs to be compensated by way of grant of interest. Further, as per the law laid down in **J.S. Cheema's case (supra)**, if an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Therefore, the case of petitioner is squarely covered by the settled principles of law settled by this Court in **A.S. Randhawa's case (supra)** and **J.S. Cheema's case (supra).**

Keeping in view the above, the petitioner is held entitled for grant of interest on the delayed payment of gratuity and leave encashment @ 9% per annum from the date the amount became due till the payments were actually released to the petitioner.

Let computation of the interest, for which the petitioner is entitled under this order be carried out within a period of two months from the date of receipt of certified copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.

The petition stands allowed in the above terms.

**(HARSIMRAN SINGH SETHI)**
24.02.2020 **JUDGE**
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No