

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22494 of 2015

Date of decision: 14.01.2020

Bimla Kumari and others

.... Petitioners

versus

State of Punjab and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manmeet Singh Rana, Advocate
for the petitioners.

Mr. Mehardeep Singh, Addl. A.G. Punjab.

HARSIMRAN SINGH SETHI, J.

Learned counsel for the petitioners very fairly states that the payments, for which the petitioners were found entitled in the year 2013, when Gurdip Chand died while in service, have been released to them only in the year 2019, and, therefore, the petitioners are entitled for interest on the delayed release of the payments by the respondents.

Learned counsel for the respondents states that the benefits could not be released to the petitioners as on an earlier occasion, the respondents have come to the conclusion that Gurdip Chand had only 03 years, 08 months and 23 days qualifying service to his credit, due to which, benefits could not be released to the petitioners and it is only after filing of the present writ petition, when the case of the petitioners was reconsidered, it was found that Gurdip Chand had 18 years, 05 months and 23 days of

service to his credit and, thereafter, the benefits were released to the petitioners, hence, the petitioners are not entitled for benefit of interest.

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

In respect of the claim of the petitioners for the grant of interest on the delayed release of payments, it is an admitted fact that Gurdip Chand was compulsorily retired in October, 2005 and he became entitled for his retiral benefits, which were not released to him despite the fact that he had approached the respondents numbers of time for the same. Unfortunately, Gurdip Chand died in the year 2013, but the benefits in respect of the service rendered by him were not released by the respondents.

Legal heirs of Gurdip Chand i.e. petitioners filed the present writ petition seeking release of pensionary benefits in respect of the service rendered by Gurdip Chand. The respondents, in their reply, have again stated that Gurdip Chand was not entitled for the benefits as he had less than ten years of qualifying service to his credit. It was only during the hearing of the writ petition when the learned counsel for the respondents realised that Gurdip Chand had 18 years of service, a request was made on 08.03.2019 to allow the respondents to reconsider the claim of the petitioners for the grant of pensionary benefits in respect of the service rendered by Gurdip Chand.

On 20.03.2019, the respondents admitted their mistake. Said admission came after a period of 14 years of retirement of Gurdip Chand that Gurdip Chand was infact entitled for the pensionary benefits as the qualifying service was wrongly calculated by them. Thereafter, the

pensionary benefits have been released to the legal heirs of the Gurdip Chand in the year 2019.

All the above facts show that delay in releasing the pensionary benefits is attributable to the respondents only. It was the respondent department which wrongly calculated the qualifying service of Gurdip Chand and Gurdip Chand died awaiting for the release of his pensionary benefits. Even after the death of Gurdip Chand, when his legal heirs filed the present writ petition, the respondents took four years to realise their mistake of wrongly calculating the qualifying service of Gurdip Chand. Pensionary benefits have only been released in the year 2019 i.e. after more than fourteen years of retirement of Gurdip Chand.

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 is retained and used by the respondents/employer, 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, benefits for which the Gurdip Chand was entitled upon his retirement in the year, 2005 have been retained by the respondents for about fourteen years and the delay in releasing the pensionary benefits is attributable to the respondents only. Hence, the

petitioners are held entitled for interest on the delayed release of pensionary benefits.

Keeping in view the above, the present writ petition is allowed. Petitioners are held entitled for interest on the delayed release of pensionary benefits @ 9% per annum from the date it became due till the same was actually released in their favour. As the present litigation has been forced upon the petitioners due to an inaction on the part of the respondents, the petitioners are also held entitled for cost of Rs.10,000/- .

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

Disposed of in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

14.01.2020
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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |