

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4601-2021
Date of decision: 23.04.2021

Vinod Kumar Jain

....Petitioner

Versus

UT Administration and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jagdeep Jaswal, Advocate,
for the petitioner.

Ms. Aarti Goyal, Advocate
for the respondents.

RAJESH BHARDWAJ, J.

1. This petition has been directed against the order dated 29.10.2019 passed by the Central Administrative Tribunal (for short 'the Tribunal'), Chandigarh wherein though the retiral benefits have been allowed to be released to the petitioner, however, no interest has been awarded on the delayed payment. The petitioner has been compelled by the respondent-employer to approach this Court with a prayer that the impugned order dated 29.10.2019 be quashed to the extent of rejecting his claim of interest on the delayed payment of the retiral dues.

2. As per the facts disclosed, the petitioner joined as Sectional Officer/Junior Engineer on 08.11.1979. He applied for the Ex-India

Leave in 2013 in response to which, he was informed on 03.09.2013 that there were certain complaints pending against him pertaining to the year 2011. However on 09.09.2013, he was granted leave. Thereafter in 2016, the petitioner applied for the voluntary retirement and he was informed vide the reply of the respondent, dated 25.01.2016 that a Vigilance Enquiry dated 30.01.2015 was registered against Building Branch, Estate Office, Union Territory, Chandigarh. However, he was allowed voluntary retirement from the post of Sub Divisional Engineer w.e.f. 01.02.2016. To the surprise of the petitioner, he was granted the provisional pension whereas on the excuse of pending vigilance enquiry, the legally entitled retiral dues were withheld by the respondent-employer. The petitioner made various requests to the respondents. However, having failed, he was compelled to approach the Tribunal wherein he filed *OA No.060/01002/2016* for the redressal of his grievance. The Tribunal vide its order dated 28.11.2017, disposed of the said OA filed by the petitioner, by directing the respondents to complete the said enquiry within two months, keeping in view the statutory rule 2.2(b) of Punjab Civil Service Pension Rules, in accordance with law. The petitioner kept running from pillar to post in order to seek justice. However, the same yielded no results. Neither the enquiry was completed as directed by the Tribunal nor his retiral dues withheld since the date of his retirement, were released to the petitioner. Having no other alternative, the petitioner filed the second *OA No.60/513/2018* dated 25.04.2018 praying for the redressal of his long standing grievances. The respondents filed the reply harping on the same old grounds that a vigilance enquiry is pending against the

petitioner and in accordance with Rule 2.2 and 2.5 of Punjab Civil Service Pension Rules, the withheld amount of his retiral dues could not be released.

3. Having heard both the parties, the learned Tribunal allowed the OA filed by the petitioner directing the respondents to release the full retiral dues to the petitioner within one month, vide its order dated 29.10.2019. The learned Tribunal observed that on the date of the retirement, there was no charge-sheet pending against the petitioner and thus, the stand taken by the respondents was totally repelled as there was no justification available with the respondents in withholding the pensionary benefits of the petitioner.

4. The respondents being not satisfied with the order passed by the Tribunal made a futile effort seeking the review of this order on the premise that vigilance enquiry was pending on the date of the retirement and the same had been converted to FIR on 21.01.2019. Having heard the respondents, the Tribunal dismissed the review application filed by them vide its order dated 11.02.2020.

5. It is pertinent to mention that as the Tribunal did not grant the interest on the delayed payment which were directed to be released, in its impugned order dated 29.10.2019. The petitioner thereafter filed another *OA No.060/140/2021* claiming interest. However, the same was dismissed as withdrawn with liberty to the petitioner to avail alternate remedy vide order dated 10.02.2021.

6. Having failed to succeed even in the review filed, the respondent-employer took action for releasing the withheld retiral dues on 05.06.2020 and resultantly, the same were released thereafter

without the interest on the same.

7. Aggrieved by the same, the petitioner has approached this Court with a prayer that in the facts and circumstances of the case, it was totally highhandedness of the respondent-employer in withholding his retiral dues and thus, the learned Tribunal should have granted the interest on the delayed payment of his retiral dues.

8. Mr. Jagdeep Jaswal, counsel for the petitioner vehemently contended that it is a well-settled proposition that retiral dues are not in the nature of bounty and the same are the hard-earned money of the employee and the respondent-employer cannot withhold the same without any established procedure of law. He has relied upon the catena of judgments passed by the Hon'ble Apex Court and by this Court on the issue involved.

9. On the other hand, Ms. Arti Goyal, counsel for the respondent contended that the respondents were justified in withholding the retiral dues as there was the vigilance enquiry pending against him. She has also relied upon the judgment titled as “The State of Andhra Pradesh and another Vs. Smt. Dinavahi Lakshmi Kameswari, Civil Appeal No.399 of 2021” decided on 08.02.2021.

10. We have heard both the counsel for the parties and perused the record.

11. A careful appreciation of the Punjab Civil Service Pension Rules relied upon by both the parties clearly reveals that on the date of the retirement, there was no charge-sheet etc. pending against the petitioner and right from the date of his retirement the petitioner had left no stone unturned in seeking his well-deserved claim for the release

of his retiral dues. However, the respondents on one pretext or the other kept on delaying the same. From the record of the case, it is amply clear that the learned Tribunal categorically directed them to complete the alleged vigilance enquiry pending within two months. However, the same was not adhered to. Neither any charge-sheet was issued to the petitioner nor he was put under suspension. Despite this, the position of his retiral dues remained the same. The petitioner had to again approach the learned Tribunal by filing the second OA and the respondents failed to give any convincing reason before the Tribunal for withholding his retiral dues and as a result, the same was allowed with a direction to release the retiral dues of the petitioner within one month. Even thereafter, the review was filed by the respondents and they again failed to make out any case before the Tribunal.

12. From the facts and circumstances of the case, it is apparently clear that there is no challenge thereafter on behalf of the respondents which clearly establish that the action on the part of the respondents was totally without any substance. The grievance of the petitioner is confined to the grant of interest on the release of his retiral dues almost after a delay of 4 years. There is no gainsaying that it is an established proposition of law that the release of the retiral dues are not a favour done by the respondent-employer and it is the hard-earned money of every employee which cannot be withheld, the manner in which the respondents in the present case have done. We are totally in agreement with the arguments advanced by the counsel for the petitioner and the judgments relied in favour of the same. We are supported by the view taken by the Hon'ble Supreme Court in S.K. Dua

Vs. State of Haryana and another, (2008) 3 SCC 44. Hence, we find that view taken by the learned Tribunal is erroneous to the extent, not granting the interest on the delayed payment made to the petitioner.

13. Thus, we *set aside* the impugned order dated 29.10.2019 to the extent of declining the interest on the delayed payment. The retiral dues of the petitioner were withheld by the respondent from the due date to the actual date of release i.e. for almost a period of four years, without any justification known to the law. As a result, we direct that the respondents would grant the interest @ 6% per annum on the delayed payment from the due date the respondents were legally bound to release the full retiral dues upto the date on which the full retiral dues were released to the petitioner by the respondents. The interest so accrued to the petitioner would be paid within a period of two months from the date of passing this order.

14. The writ petition is allowed in the abovesaid terms.

15. Since the main case has been decided, the pending Civil Misc. Application(s), if any, also stands disposed of.

(RAJESH BHARDWAJ)
JUDGE

(AJAY TEWARI)
JUDGE

23.04.2021

m. sharma

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No