IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9965 of 2020
Date of decision : 16.02.2021

Satpal Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Nitesh Singla, Advocate for the petitioner.

Ms. Sunint Kaur, Assistant Advocate General, Punjab.
***

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance, which is being raised by the petitioner is that appropriate direction be issued to the respondents to release his pensionary benefits, for which he had become entitled after he superannuated on attaining the age of superannuation on 31.03.2015.

As per the averments, the petitioner was entitled for a sum of Rs. 11,05,005/-, out of which, Rs. 6,53,938/- was paid and an amount of Rs. 4,51,067/- was still due. The prayer of the petitioner is for issuance of a direction to the respondents to release the full amount due to him and also the interest on the delayed release of the pensionary benefits.

Upon notice of motion, respondents have filed the reply. Respondent No. 4-Executive Officer, Nagar Council, Mullanpur Dakha, District Ludhiana, who was to pay the benefits to the petitioner, has stated in the reply that the petitioner was entitled for a sum of Rs. 10,54,148/- and the same has already been paid to him. The reply as given in para 4 of the

KANCHAN
2021.02.17 13:23
I attest to the accuracy and
integrity of this document

written statement is as under :-

> *"4. That para no. 4 of the writ petition is admitted as correct to the extent that petitioner after his superannuation was entitled to get the pension and all pensionary benefits under the regulations governing his conditions of service from the answering respondent, but it is wrong and denied that till date that the petitioner has not been released his pensionary benefits i.e GPF, Leave Encashment and Gratuity etc. rest of the para is also wrong and denied being false and frivolous. It is worth to mention here that, the amount of Gratuity, Leave Encashment and PPF had already been paid by the answering respondent No.4 to the petitioner from time to time, the detail of which is as under:-*

Pay as on 31/03/2015	*Gratuity Payable under Payment of Gratuity Act, 1972*	*Leave Encashment Payable*	*Pension Contribution Deduction*	*PPF/GPF Payable*	*Total amount payable*	*Amount Paid*	*Due amount*
Rs.32,376/-	Rs.7,47,138/- (32376x40x15/26)	Rs.3,23,760/- (32376x300/30)	Rs.16,750/-	90% amount taken as advance during service period and Rs.34,166.80 paid on 12/10/2015 vide DD No.248986 Drawn on OBC	Rs.10,54,146/- (7,47,138 + 3,23,760-16750/-)	Rs.10,54,148	NIL

> *Answering respondent paid total amount of Rs.9,88,788/- to the petitioner, detail of demand drafts by which, said payment was paid to the petitioner by the answering respondent No.4 is as under:-*

Sr. No.	*Date*	*Draft Number*	*Amount*
1	31/03/2015	052582 drawn on OBC	Rs.1,50,000/-
2	02/03/2016	65956 drawn on OBC	Rs.1,00,000/-
3	02/06/2016	065990 drawn on OBC	Rs.2,01,600/-
4	/ /	drawn on OBC	Rs.54,000/-
5	07/08/2017	375058 drawn on OBC	Rs.1,00,000/-
6	26/03/2019	004506drawn on OBC	Rs.1,33,250/-
7	22/05/2020	840435 drawn on OBC	Rs.50,000/-
8		065997 drawn on OBC in compliance of order passed in CWP No.20941 of 2015	Rs.1,99,938/-
9	28/09/2020	029600 OBC	65,307/-
		Total	**10,54,148/-**

> *Hence, as the balance/due shown by the petitioner in the present petition amounting to Rs.4,51,067/- is wrong and baseless and the said amount was not payable by the answering respondent*

KANCHAN
2021.02.17 13:23
I attest to the accuracy and integrity of this document

No.4 to the petitioner as per law and the petitioner has been wrongly claiming the said amount from the answering respondent on the basis of wrong facts and calculations."

Learned counsel for the petitioner submits that the amount for which the petitioner was entitled, have been paid but the said amount has been paid after a delay and, therefore, the petitioner is entitled for interest on delayed release of payment relating to the pensionary benefits.

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

A bare perusal of the chart, which has been reproduced by respondent No. 4 in its reply, makes it clear that on the date of retirement of the petitioner only Rs. 1,50,000/- was paid to him and rest of the total amount of Rs. 10,54,148/- was paid to petitioner starting from March, 2016 onwards till September, 2020. Nothing has been mentioned in the reply so as to justify the said delay in releasing of the pensionary benefits. In the absence of any justification given by the respondents, it has to be held that the delay is to be attributed to the respondents.

As per the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** an employee is entitled for the release of the pensionary benefits within a reasonable time of his/her retirement and the reasonable time fixed by the Hon'ble Full Bench in **A.S. Randhawa's case (supra)** is two months after the retirement and in case of default, it has been held that the employee needs to be compensated by the award of interest. The relevant paragraph of said judgment is as under:-

"Since a government employee on his retirement becomes immediately entitled to pension and other benefits in

KANCHAN
2021.02.17 13:23
I attest to the accuracy and
integrity of this document

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."

In the present case, the chart which has been reproduced in the preceding paragraph, shows that the delay in releasing the amount except an amount of Rs. 1,50,000/- released on 31.03.2015, is more than two months from the date of retirement of the petitioner. The case of the petitioner is squarely covered for the grant of interest on the amount, which has been released to the petitioner thereafter.

Further, a Coordinate Bench of this Court in of **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** has held that where an amount for which an employee was entitled, has been retained and used by the respondents, employee will be entitled for the interest. 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

KANCHAN
2021.02.17 13:23
I attest to the accuracy and
integrity of this document

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 amount which has been paid starting from 02.03.2016 onwards, has been retained by the department and that too without any valid justification and, therefore, the petitioner is entitled for the grant of interest on the said delayed release of the pensionary benefits.

Keeping in view the above, the claim of the petitioner for the grant of interest on delayed release of payment is allowed. The petitioner is held entitled for the interest @ 9% per annum from the date, the amount became due till the same is released except the amount of Rs. 1,50,000/-, which was released to him on 31.03.2015. Let the amount of interest for which the petitioner becomes entitled under this order be calculated by the respondents within a period of one month from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of 15 days thereafter.

Writ petition is allowed in above terms.

February 16, 2021 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No

KANCHAN
2021.02.17 13:23
I attest to the accuracy and
integrity of this document