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

**(238)** **CWP No. 467 of 2020**
**Date of Decision : 14.03.2022**

**Rajinder Singh**
**...Petitioner**

**Versus**

**State of Haryana and others**
**...Respondents**

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

Present: Mr. Balraj Singh Rathee, Advocate for the petitioner.

Mr. Narender Singh Behgal, A.A.G., Haryana.

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***Harsimran Singh Sethi J. (Oral)***

In the present petition, the prayer of the petitioner is for the grant of interest on the delayed release of the pensionary benefits, which prayer has been declined by the respondents vide impugned order dated 27.11.2019 (Annexure P-7).

Learned counsel for the petitioner argues that the petitioner was compulsorily retired by the respondents by an order dated 31.10.2002 (Annexure P-1). The said order was challenged by the petitioner by filing CWP No. 19416 of 2002 but as the petitioner did not get any interim order, the petitioner was retired. Learned counsel for the petitioner submits that though the petitioner got retired but as he had approached the Court challenging the action of the respondents, his pensionary benefits were not being released and that too without any valid justification. Learned counsel for the petitioner further submits that petitioner approached the respondents for granting him the pensionary benefits number of times but of no avail and it was only after a period of 14 years of the retirement, in 2016 the petitioner was extended the concession of pensionary benefits and, therefore, prayer of the petitioner is for the grant of interest for the period, when the pensionary benefits were retained with the respondent-department without any valid justification. It may be noticed that while demanding interest on the delayed release of pensionary benefits, even the petitioner has unfortunately left this world during the pendency of the petition and now it is the family of the petitioner, who is praying before this Court for the grant of interest.

Learned counsel for the respondents submits that the impugned order is perfectly valid and legal and in the facts and circumstances of this case, petitioner is not entitled for the grant of interest. Learned counsel for the respondents further submits that the petitioner was being called by the respondents number of times to the office so that benefits could be extended to him and the dates on which the petitioner was called, have also been mentioned in the impugned order but as the petitioner did not respond to the request of the respondent-department, the respondents could not release his pensionary benefits, therefore, the delay is not attributable to the respondents and, therefore, the prayer of the petitioner for the grant of interest may kindly be declined.

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

In the present case, the burden of the delay in release of the pensionary benefits is being put by the petitioner and respondents upon one and another. Keeping in view the averments, which are already on record, it is a conceded position that the dates on which the respondents had summoned the petitioner by issuing letters, no such record is available. That shows that it is a case of one's word against another.

A Co-ordinate Bench of this Court while passing order in CWP-15867-2001 titled as ***"J.S. Cheema Vs. State of Haryana and others"***, decided on 20.11.2013, has held that where, the amount of an employee has been retained by a Government Department, which actually belonged to the employee, and has used the same to its benefit, the employee becomes entitled for the grant of interest, even if prima-facie, the amount retained was not released to the employee without any justificable reason. The relevant paragraph No.5 of the judgment is as under:-

> *" x -- x -- x*
>
> *In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.*
>
> *x -- x -- x"*

In the present case, it is not disputed that the amount of pensionary benefits was retained by the department and used. Though, it might be difficult to pin point the reason for delay in release of the pensionary benefits whether the same is attributable to the petitioner or the respondents but as, the amount was retained by the respondents and used to their benefits, keeping in view the judgment in ***J.S. Cheema's case (supra),*** the petitioner has become entitled for the grant of interest.

The case of the petitioner is squarely covered by the above said decision in his favour for the grant of interest on the delayed payment.

Resultantly, the prayer of the petitioner is allowed. He is held entitled for interest @ 6% per annum from the date the amount became due till the same is released. Let the computation of interest be done by the respondents within a period of two months from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of three weeks thereafter.

The writ petition is allowed in above terms.

**March 14, 2022** **(HARSIMRAN SINGH SETHI)**
*kanchan* **JUDGE**

*Whether speaking/reasoned : Yes*

*Whether reportable : Yes*