

CM-19485-CWP-2021 in/and
CWP-1206-2021

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

**CM-19485-CWP-2021
in/and CWP-1206-2021
Date of Decision: 10.03.2022**

Jagwant Kumar Sharma

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishabh Gupta, Advocate,
for the applicant/petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-19485-CWP-2021:

The present application has been filed for preponing the next date of hearing in CWP-1206-2021, which now stands adjourned to 27.04.2022.

Notice of the application.

Mr. Navdeep Chhabra, DAG, Punjab, accepts notice on behalf of the non-applicants/respondents and raises no objection in case prayer made in the present application is accepted.

Keeping in view the above, date of hearing in CWP-1206-2021 is preponed from 27.04.2022 to today itself for consideration.

Application stands disposed of.

CWP-1206-2021:

The present petition has been filed for the grant of interest on

the pensionary benefits, which were released to the petitioner starting from the year 2019 till 2020, though the petitioner attained the age of superannuation on 31.07.2016.

Learned counsel for the petitioner argues that at the time when petitioner retired from the service, four charge-sheets were pending against him due to which, certain pensionary benefits of the petitioner were withheld by the respondents. The said charge-sheets dated 13.07.2015, 24.05.2016, 03.06.2016 and 05.07.2016 were ultimately withdrawn on 10.03.2017, 06.10.2017, 30.11.2018 and 23.07.2018, respectively, by the respondents themselves as no allegations could be substantiated against the petitioner, and therefore, keeping in view the said fact, the petitioner, who was at no fault at any given point of time, becomes entitled for the grant of interest on the delayed release of the payments.

Learned State counsel submits that since it is a conceded position that the charge-sheets were pending on the day when the petitioner retired, i.e. on 31.07.2016, hence it cannot be said that certain pensionary benefits, which were withheld, were beyond the jurisdiction of the respondents. Learned State counsel also concedes the factum that the allegations alleged by the respondents in the said charge-sheets could not be proved and the same were withdrawn on the dates which have been given by the petitioner, as recorded hereinbefore. Learned State counsel submits that another fact which needs to be taken into consideration while considering claim of the petitioner for the grant of interest is that vide order dated 10.09.2018, passed in IOIN-CRA-S-3243-SB-2013, a co-ordinate Bench of this Court had directed that the pensionary benefits of the petitioner be not settled, if not already done, and it was only on 13.08.2019, when the said

order came to be vacated, therefore, non-release of the pensionary benefits within that period could not be attributed to the respondents. Learned State counsel further submits that after the said order dated 13.08.2019 was passed by a co-ordinate Bench of this Court, the appropriate action which was needed for the releasing the withheld pensionary benefits was undertaken and the same were released to the petitioner starting from the year 2019 till 2020.

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

It is a matter of fact that the pensionary benefits of the petitioner were withheld by the respondent, after the petitioner superannuated on 31.07.2016, due to pendency of the four charge-sheets against him. It is a conceded position that the allegations alleged in the said charge-sheets could not be proved against the petitioner and he was found innocent, and therefore, those charge-sheets were dropped by the respondents themselves.

Once the Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled upon his superannuation was withheld, and the Department failed to substantiate those allegations, therefore, the issuance of the charge-sheets or pendency of the same cannot cause prejudice to the petitioner. The acts which are attributable to the respondent cannot cause prejudice to an employee as firstly by withholding the pensionary benefits on the basis of pendency of the charge-sheets issued by the Department alleging certain allegations and thereafter, by denying the grant of interest on the delayed payments, despite the fact that the employee was found innocent as the

Department concerned failed to prove those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his pensionary benefits upon his retirement for a sufficient long period of time and petitioner could not use those financial benefits to his benefit, the petitioner becomes entitled for the grant of interest on the delayed payments to mitigate the prejudice/hardship suffered by him, which is in consonance of settled principle of law.

A co-ordinate Bench while passing order in CWP-15867-2001 titled as “J.S. Cheema Vs. State of Haryana and others”, decided on 20.11.2013, held that even where an amount has been retained by a Government Department, which actually belonged to the employee, and has used the same to its benefit, and the employee has suffered prejudice due to the non-release of the said amount, the employee becomes entitled for the grant of interest, so as to compensate him for the said prejudice. 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 also, the amount which was retained by the respondents under the pretext of pendency of the charge-sheets against the petitioner has been used by the respondents to their benefit and hence, the case of the petitioner for grant of interest on the delayed payments is covered by the above said ratio given by the learned co-ordinate Bench of this Court.

In view of the above, the present petition is allowed and the respondents are directed to grant petitioner the interest at the rate of 9% per annum on the delayed payments released to him from the date when the amount became due till the same were released. It is clarified that while computing the period for which the petitioner is to be granted the said interest, the period from 10.09.2018 to 13.08.2019 be excluded keeping in view the order dated 10.09.2018, passed in IOIN-CRA-S-3243-SB-2013, by this Court, as the respondents were restrained not to release the pensionary benefits to the petitioner during the aforesaid period.

10.03.2022
Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes