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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CM-9329-CWP-2022 in/and
CWP-3058-2021
Date of Decision: 04.07.2022

P.M. Sinha

..... Petitioner

Versus

The Managing Director and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mukesh Arora, Advocate, for the petitioner.

Mr. Abhilaksh Gaind, Advocate, for the respondents.

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<u>HARSIMRAN SINGH SETHI J.</u> (ORAL)

<u>CM-9329-CWP-2022</u>:

For the reasons mentioned in the application, the same is allowed and the written statement filed on behalf of the respondents is taken on record, subject to all just exceptions.

<u>CWP-3058-2021</u>:

In the present petition, claim of the petitioner is for the grant of interest on the delayed release of pensionary benefits to him by the respondents.

Learned counsel for the petitioner argues that though all the pensionary benefits, for which the petitioner was entitled for upon his retirement on 31.10.2008, have already been released in his favour by the respondents, but the same has been done after a delay, and therefore, the petitioner is entitled for the grant of interest on the said delayed release of pensionary benefits to him by the respondents.

As per the facts mentioned in the present petition, the petitioner retired on 31.10.2008 as District Manager, Punjab State Civil Supplies Corporation. At the time when the petitioner got retired, there were certain charge-sheets pending against him, due to which fact, the pensionary benefits of the petitioner were withheld by the respondents. The said pensionary benefits were thereafter released to the petitioner in March, 2019, after which, the petitioner has approached this Court, claiming that the pensionary benefits have been released to him by the respondents after a delay of eleven years, and therefore, for the said delayed period, the petitioner may kindly be compensated with the grant of interest to him by the respondents.

The plea of the petitioner has been controverted by the respondents by filing a reply, wherein the respondents have given the details with regard to the disciplinary proceedings, which were pending against the petitioner at the time of his retirement, and the date on which the said proceedings had attained the finality, so as to contend that there was no delay on part of the respondents in releasing the pensionary benefits to the petitioner.

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

It is an undisputed fact that on the date when the petitioner got retired, i.e. on 31.10.2008, there were certain disciplinary proceedings pending against him, which proceedings later on attained finality, the details of which have been given by the respondents in paragraph No.2 of the reply filed by them. A bare perusal of the said reply would show that the proceedings came to an end by September, 2012, but the respondents did not release the pensionary benefits to the petitioner for a period of seven years thereafter. The argument which has been raised by the respondents in their defence is that the decision of the Appellate Committee, which was dealing with certain recoveries imposed upon the petitioner, was given approval by the administration only in December, 2016, and therefore, though the Appellate Committee had passed a final order deciding the appeals, which were pending against the petitioner in the year 2012, but the approval was given by the administration only after a period of four years in the year 2016, hence the proceedings pending against the petitioner finally came to an end in December, 2016 and not in September, 2012. The said argument of the respondents cannot be accepted for the reason that once the administrative Committee had passed a final order deciding the disciplinary proceedings against the petitioners, merely non-grant of approval to the said order by the administration will not curtail right of the petitioner to seek interest for the said delayed time period in releasing the pensionary benefits to him by the respondents as the respondents took four years to grant approval to an order.

Further, the approval given to the order of the appeal dated 17.09.2012 will relate back to the date when the final order was passed and it cannot be treated as a date on which the proceedings have came to an end.

Keeping in view the above, there was no valid justification with the respondents to withhold the pensionary benefits of the petitioner after 17.09.2012.

As per the judgment of the Full Bench of this Court passed in

"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468, wherein it has been stated that an employee, who has not been released the pensionary benefits within a period of two months from superannuation, if there is no impediment in releasing the said pensionary benefits to him/her, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits. The relevant paragraph of the said judgment is as under:-

> *" - x - x -*
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> *8. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in 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 from 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. ...*
>
> *- x - x -"*

Keeping in view the aforesaid judgment, once the impediment is removed, the employee becomes entitled for the grant of pensionary benefits to him/her by the Department concerned within a period of two months of the date of removal of the said impediment. In the present case, there was no impediment in releasing the pensionary benefits to the petitioner by the respondents after all the disciplinary proceedings, which were pending against the petitioner, came to an end, i.e. on 17.09.2012.

Keeping in view the aforesaid principle of law laid down in **A.S. Randhawa's case** (supra), prayer of the petitioner is allowed and the petitioner is held entitled for the grant of interest on the said delayed release of pensionary benefits to him by the respondents at the rate of 6% per annum starting from 01.11.2012 till the date of actual payment of the same to the petitioner.

Let the computation of interest, for which the petitioner becomes entitled for under this order, be carried out within a period of two months from the date of receipt of the copy of this order and the interest so calculated be paid to the petitioner within a period of one month thereafter.

Allowed in the above terms.

04.07.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No