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

CWP NO.1651 of 2021
DECIDED ON: 19.07.2022

Khem Nath ...Petitioner...

VERSUS

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Kumar, Advocate,
for the petitioner.

Mr. R.S. Budhwar, Addl. Advocate General, Haryana.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed with the prayer that the respondents may kindly be directed to re-compute the pensionary benefits of the petitioner by counting adhoc service/daily wage service which the petitioner had rendered from 31.03.1993/01.04.1993 onwards till the regularization of the same i.e. w.e.f. 28.01.2000.

As per the averments made in the petition, the petitioner retired on attaining the age of superannuation i.e. on 31.01.2019 but, the benefits of service which the petitioner had rendered on daily wage basis as a Chowkidar starting from 31.03.1993 has not been extended. Petitioner was appointed on daily wage basis on 31.03.1993 and his service was regularized w.e.f. 28.01.2000 and he continued working as such till he attained the age of superannuation on 31.01.2019 but, the benefits of daily wage service was not extended to the petitioner while calculating his pensionary benefits as the daily wage service was not treated as qualifying service for computing his pensionary benefits.

The grievance of the petitioner in the present petition is that the respondents be directed to grant the petitioner the benefit of the daily wage service rendered by him w.e.f. 01.04.1993 onwards till the date of regularization as qualifying service for computing his pensionary benefits.

After notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that all the benefits for which the petitioner is entitled for have already been released except for the period, the petitioner remained absent i.e. in April 2016, which period was treated as a leave without pay. The respondents have passed an order recalculating the pensionary benefits of the petitioner, which have been released to him in the month of July, 2021.

Though, the benefits for which the petitioner was entitled for have already been released to him but the same have been released only in July, 2021 i.e. much after the date of his retirement and, therefore, the petitioner claims the grant of interest on the delayed release of the pensionary benefits.

As per the settled principle of law settled by a 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 his pensionary benefits within a period of two months of his retirement in case there is no impediment, failing which, the employee is entitled for interest on the delayed payment. 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 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."*

Further, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. 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 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, nothing has been mentioned as to what prevented the respondents from granting the benefits to the petitioner when he retired on 31.01.2019, which have been extended now in July, 2021. That being so, it can be safely said that there was no impediment in releasing these benefits when the petitioner retired from service in January, 2019 hence the delay in the release of the benefits is attributed to the respondents themselves. Keeping in view the fact and law stated hereinbefore, claim of the petitioner for the grant of interest is covered in his favour.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the payment, which have been released only in July, 2021 i.e. much after the date of retirement of the petitioner i.e. 31.01.2019. The petitioner will be entitled for interest from 01.04.2019 onwards till the actual payments was released to him. 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 four weeks thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
19.07.2022 **JUDGE**
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Whether speaking/reasoned Yes
Whether reportable Yes