IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234 **CWP-1896-2021**
Date of Decision :06.05.2022

Labh Singh **..Petitioner**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. V.K. Sandhir, Advocate for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab
assisted by Kuldeep Singh, Panchayat Officer,
Panchayat Samiti Khanna.

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<u>Harsimran Singh Sethi, J. (Oral)</u>

The present petition has been filed for the grant of pensionary benefits to the petitioner, who has retired from service on 30.04.2016.

Learned counsel for the petitioner argues that there is no impediment in the release of the pensionary benefits of the petitioner as no proceedings either departmental or before any competent Court of law were pending against the petitioner. Prayer of the petitioner is for issuance of a direction to the respondents to release his pensionary benefits forthwith along with interest.

After notice of motion, respondents have appeared.

Learned State counsel on instructions from Kuldeep Singh, Panchayat Officer, Panchayat Samiti Khanna submits that the pensionary benefits, for which, the petitioner is entitled for, have already been released to him though, the said release is beyond the period of two months of the retirement of the petitioner.

Learned State counsel submits that though, reply has not been filed but, as per her instructions, leave encashment was released in favour of the petitioner on 30.03.2019 and provident fund amounting to Rs.5,73,412/- was released on 01.08.2019 and the pension alongwith arrears was released in March, 2021. Learned State counsel further submits that as of now, there is no pending payment, which is to be released to the petitioner.

Learned counsel for the petitioner submits that though, the payments have already been released in favour of the petitioner but, the same have been released after an inordinate delay of three years, for which, the petitioner is entitled for the grant of interest.

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

Though, the prayer of the petitioner for the grant of pensionary benefits has already been rendered infructuous as the payments have already been released to him but, claim of the petitioner for the grant of interest on the said delayed release of payments still subsists. Nothing has been brought to the notice of this Court by the respondents that there was any impediment in the release of the pensionary benefits of the petitioner after he retired from service and concededly, the payments have been made starting from March, 2019 onwards, which is approximately three years after the retirement of the petitioner.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, has held that 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. 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."*

It is a conceded position that in the present case, payments have been made to the petitioner starting from March, 2019 onwards, which is approximately three years after his retirement. That being so, the prayer of the petitioner for the grant of interest on delayed payment is covered by the judgement passed by the Full Bench of this Court in A.S. Randhawa's case (supra).

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 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."*

Further, a charge sheet which was issued to the petitioner stood decided prior to his retirement and, therefore, as there was no impediment on the date of the retirement of the petitioner, the pensionary benefits of the petitioner should have been released within a period of two months, which concededly was not done. Hence, the case of the petitioner is squarely covered by the above said decisions in his favour for the grant of interest on the delayed payments.

Resultantly, the prayer of the petitioner for the grant of interest on delayed release of payment is allowed. Petitioner is held entitled for the interest @ 6% per annum on the payment, which have been released after a delay of two months of his retirement from the date the payments became due till the actual payments will be 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.

May 06, 2022 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No