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

272 **CWP-1863-2021**
Date of Decision :12.05.2022

Arjun Singh **..Petitioner**

Versus

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mahesh Dhir, Advocate for the petitioner.

Mr. Satish Singla, AAG, Haryana.

Mr. Sandeep Moudgil, Advocate for respondent No.3.

Mr. Rajiv Verma, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

In the present petition prayer is for issuance of a direction to the respondents to release the gratuity of the petitioner amounting to Rs.6,80,323/-, which was not being paid to him, despite the fact that there was no impediment in the release of the same at the time of his retirement.

Learned counsel for the petitioner submits that during the pendency of the present writ petition, on 03.09.2021, gratuity has been released by the respondents but, as there is a delay in the release of the same, the petitioner is entitled for the grant of interest on the said payment.

Learned counsel for the respondents submits that though, there is a delay in the release of the amount of gratuity to the petitioner but, the same has been occurred due to the procedure involved.

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

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/her pensionary benefits within a period of two months of his/her retirement in case, there is no impediment in the release of the same. 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."*

In the present case, there was no impediment in the release of the gratuity of the petitioner at the time of his retirement and concededly, the delay is attributable upon the respondents. That being so, 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."*

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

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the delayed release of amount of gratuity from the date the same became due till the actual payment has been made. 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 stands allowed.

May 12, 2022 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

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