

CWP No. 1976 of 2020 and other connected case
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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
(Sr. No. 232)

(1) CWP No. 1976 of 2020
Date of Decision: 15.03.2022

Kirpa Ram Petitioner
Versus

State of Haryana and others
..... Respondents

(2) CWP No. 18434 of 2018

Lal Chand Petitioner
Versus

State of Haryana and others
..... Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Y.P. Malik, Advocate for the petitioner
in CWP No. 1976 of 2020.

Mr. Manoj Chahal, Advocate for the petitioner
in CWP No. 18434 of 2018.

Mr. Narender Singh Behgal, A.A.G., Haryana.

Harsimran Singh Sethi J. (Oral)

By this common order, two writ petitions, the details of which have been given above, are being disposed of as both the writ petitions involve the same question of law as to whether the petitioners are entitled for the grant of interest on the delayed release of the pensionary benefits.

For the purpose of the present order, the details are being taken

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from CWP No. 1976 of 2020 titled as ***Kirpa Ram Vs. State of Haryana and others.***

Learned counsel for the petitioner argues that the petitioner was appointed as a Junior Engineer, Mechanical with the respondent-department on 06.12.1976 and was thereafter promoted as Sub Divisional Officer on 31.12.2007 and while working on the said post, the petitioner retired on 30.04.2013 on attaining the age of superannuation. Learned counsel for the petitioner argues that at the time when the petitioner retired from service, there were three complaints, which were pending against him and after retirement charge-sheets were framed, due to which, the DCRG as well as commutation of pension was withheld. Learned counsel for the petitioner submits that said charge-sheets, which were framed after the retirement of the petitioner, were taken to the final conclusion and all the charge-sheets were dropped and thereafter, the withheld benefits of death-cum-retiral gratuity amounting to ₹8,82,387/- as well as the commutation of pension amounting to ₹5,96,886/- was released in favour of the petitioner on 14.09.2017. The prayer of the petitioner in the present petition is that as the petitioner retired from service on attaining the age of superannuation on 30.04.2013 and the benefits were retained by the respondents for a period of more than four years, the petitioner is entitled for the grant of interest on the said amount.

Upon notice of motion, the respondents have filed the reply wherein, in para 10, the following averments have been made :-

“That two charge sheets which were served upon the petitioner vide Government memos No. 6/23/2013-21E dated 18.10.2014 and No. 6/9/2011-21E dated 24.12.2014, were

dropped by the Government vide its orders dated 13.07.2017 and 15.07.2017, respectively. The third charge sheet, which was served upon the petitioner vide Government memo No. 6/33/2012-21E dated 30.10.2013, was decided by the Principal Secretary to Government Haryana, Irrigation & W.R. Department vide its order dated 27.07.2017 holding that-

“Although no charges involving financial loss have been proved against him. However, it has been observed that he was negligent and failed to maintain the transparency in lifting process to some extent. The agency has also deposited the storage charges at very later stage. Since the officer has retired from the service, therefore, taking a lenient view, the competent authority has decided to drop the charges against Sh. Kirpa Ram, SDO (now Retired) contained the above said memorandum.”

After decision of above said charge-sheets, DCRG amounting to Rs. 8,82,387/- and commutation of pension amounting to Rs. 5,96,886/- were got released in favour of the petitioner vide Accountant General (A&E), Haryana, Chandigarh vide letters dated 14.09.2017 by the pension sanctioning authority i.e. Executive Engineer M/Garg WS Mechanical Division, Narnaul. “

Learned counsel for the respondents submits that as the charge-sheets were pending against the petitioner at the time of his retirement, certain pensionary benefits of the petitioner were rightly withheld and, therefore, when the petitioner was exonerated, the same has been released without any delay hence, the claim of the petitioner for the grant of interest may kindly be declined.

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

It is a conceded fact in both the petitions that at the time of

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retirement of the respective petitioners, there were complaints pending and the charge-sheets framed upon them after their retirement, due to which, certain pensionary benefits of the petitioner(s) were withheld but upon re-consideration, the respondents found that the allegations could not be substantiated and the charge-sheets were dropped. That being so, it is clear that the allegations, which were alleged against the petitioner(s) by the respondents, could not be proved by the respondents themselves, whereas for the said action of the respondents, the petitioner(s) suffered prejudice as they were not able to get their retiral benefits immediately after the retirement and could not use the amount to their benefit for sufficiently long time.

Once the Department alleged allegations against the petitioner(s) and on the basis of those allegations, the amount for which the petitioner(s) became entitled upon their 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(s). The acts which are attributable to the respondents 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(s) are found innocent of the allegations and have suffered prejudice only due to the actions of the respondent-Department as the

petitioner(s) were prevented from availing their pensionary benefits upon their retirement for a sufficient long period of time and petitioner(s) could not use those financial benefits to their benefit, the petitioner(s) become entitled for the grant of interest on the delayed payments to mitigate the prejudice/hardship suffered by them, 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”

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In the present case also, the amount which was retained by the respondent-Department under the pretext of pendency of the disciplinary proceedings against the petitioner(s) has been used by the Department to its benefit and hence, the case of the petitioner(s) for grant of interest on the delayed payments is covered by the above said ratio given by the learned co-ordinate Bench of this case.

In view of the above, the present petitions are allowed. The petitioner(s) are found entitled for interest on the retiral benefits, which were withheld and have been released after a delay, @ 6% per annum from the date the amount became due till it was actually released.

Let the calculation of the interest under this order be done within a period of two months and the amount so calculated be released to the petitioner(s) within a period of four weeks thereafter.

15.03.2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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