IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(322)

CWP No.1799 of 2022
Date of Decision : 17.10.2022

Anil Kumar Aggarwal ....Petitioner

Versus

State of Haryana and others ....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Aniket Aggarwal, Advocate
for the petitioner.

Mr. Ravinder Singh Budhwar, Additional Advocate General, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance of the petitioner is that the retiral benefits of the petitioner as admissible to him have not been released to him despite the fact that the petitioner attained the age of superannuation and retired on 30.04.2021.

Leanred counsel for the petitioner argues that there are no departmental proceedings or even criminal proceedings are pending against the petitioner, which gives jurisdiction to the respondents to withhold the retiral benefits, hence the non-release of the retiral benefits by the respondents is totally arbitrary and illegal.

Learned counsel for the petitioner submits that there is a vigilance enquiry, which has been listed by the Vigilance Department, Haryana but the said proceedings cannot be taken into account as the same are neither departmental nor criminal, hence the respondents does not have any jurisdiction to withhold the pensionary benefits keeping in view the said vigilance proceedings.

Learned counsel for the respondents concedes the fact that the petitioner retired on attaining the age of superannuation on 30.04.2021 and there were no departmental or criminal proceedings pending against the petitioner at the time of retirement and even thereafter, learned counsel by placing reliance upon the reply filed in the Court submits that as vigilance enquiry is pending against the petitioner, the same is good enough for withholding the pensionary benefits of the petitioner.

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

The respondents have already released leave encashment of the petitioner. In case, any proceedings departmental or criminal are pending against an employee, leave encashment cannot be released and once the respondents themselves have released leave encashment admissible to the petitioner, it can be safely said that there are no proceedings pending against the petitioner so as to give jurisdiction to the respondents to withhold the pensionary benefits.

Keeping in view the above, the respondents are directed to release all the pensionary benefits of the petitioner, which have been withheld within a period of two months from the date of receipt of a certified copy of this order.

Learned counsel for the petitioner argues that as the pensionary benefits of the petitioner were withheld by the respondents without their being any valid impediment and they were released after a period of two months of his retirement, the petitioner becomes entitiled for the grant of interest.

Keeping in view the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** in case the pensionary benefits of an employee are not released within a period of two months, in case there is no impediment, the employee gets entitiled for the grant of interest. 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 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."

In the present case, as there was no valid impediment in the release of the pensionary benefits of the petitioner, keeping in view the law stated, the petitioner becomes entitiled for the grant of interest on the delayed release of the pensionary benefits as well as the petitioner will also be entitled for the interest @ 6% per anuum on the retiral benefits till the date payments were released. Let the said interest be also released within a period of two months from the date of receipt of a certified copy of this order.

The writ petiton is allowed in above terms.

October 17, 2022 **(HARSIMRAN SINGH SETHI)**
jt **JUDGE**

Whether reasoned/speaking? *Yes*
Whether reportable? *No*