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

CM-16545-CWP-2021 in/and
CWP-3787-2021
Date of Decision: 19.05.2022

Vikram Singh Malik

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate, assisted by
Mr. Sachmeet Singh Randhawa, Advocate,
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-16545-CWP-2021:

For the reasons mentioned in the application, the same is allowed and the short replication filed by the applicant/petitioner to the written statement filed by the respondents is taken on record, subject to all just exceptions.

CWP-3787-2021:

In the present petition, grievance of the petitioner is that he retired on 31.12.2016, upon attaining the age of superannuation, whereas

the death-cum-retirement gratuity benefits were paid to him by the respondents on 06.10.2021, i.e. during pendency of the present petition, despite the fact that there were no proceedings pending against him, which would have given jurisdiction to the respondents to withhold his pensionary benefits. Hence, the delay in releasing the said benefits to him is attributable to the respondents only and the petitioner is entitled for the grant of interest on the said delayed release of death-cum-retirement gratuity benefits keeping in view the settled principle of law laid down by the Full Bench of this Court while passing judgment in “A.S. Randhawa Vs. State of Punjab and others”, 1997(3) SCT 468.

Learned State counsel submits that the respondent-Department was earlier contemplating to issue a charge-sheet to the petitioner, but ultimately no such charge-sheet was issued to him, and therefore, the gratuity amounting to Rs.13,51,806/- was released to the petitioner on 06.10.2021. Learned State counsel further submits that the said delay can be termed as 'procedural one', and therefore, the petitioner cannot claim interest on the said delayed release of the death-cum-retirement gratuity benefits to him.

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

As per the judgment passed in **A.S. Randhawa's case** (supra), an employee who has not been released the pensionary benefits within a period of two months from superannuation, despite there being any impediment, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits. The relevant paragraph of the said

judgment is as under:-

“ - x - x -

8. *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 retiree 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 from 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. ...*

- x - x -”

In the present case, no impediment has been brought to the notice of this Court, which would have given jurisdiction to the respondents to withhold the death-cum-retirement gratuity benefits of the petitioner, starting from 01.01.2017 till 06.10.2021, by the respondents, therefore, the delay in releasing the said benefits to the petitioner is attributable to the respondents only, and that too without any valid justification.

Further, a co-ordinate Bench of this Court, 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 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”

Keeping in view the above, the petitioner has made out a case for the grant of interest on the delayed release of death-cum-retirement gratuity benefits to him, hence the present petition is allowed with a direction to the respondents to grant petitioner the interest at the rate of 6% per annum on the delayed payments of the said benefits from the date the said benefits became due till the date, when the said benefits were actually released to him.

Let the calculation of the interest under this order be done by the respondents within a period of two months from the date of receipt of

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the copy of this order and the amount so calculated, be released to the petitioner within a period of four weeks thereafter.

19.05.2022

Apurva

**(HARSIMRAN SINGH SETHI)
JUDGE**

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