IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.203

CWP No.3233 of 2022
Date of Decision: 14.09.2022

Jai Singh .... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Johan Kumar, Advocate
for the petitioner.

Mr. S.S.Mann, Addl. A.G.Haryana.

Mr. Padamkant Dwivedi, Advocate
for respondents No.2 and 3.

***

HARSIMRAN SINGH SETHI, J. (ORAL)

Learned counsel for the parties are agreed that the question of law raised in the present petition has already been decided by this Court while passing order in ***CWP No.19280 of 2019*** titled as ***Babu Lal versus Managing Director, Haryana Agro Industries Corporation Limited,*** decided on 06.09.2022 and the present petition may kindly be disposed of in the same terms and conditions.

Ordered accordingly.

Learned counsel for the petitioner submits that the petitioner retired in November, 2014 and chargesheet was served upon him after 4 years of his retirement and in the anticipation of the chargesheet, the pensionary benefits were not released to the petitioner, which act of the respondents is contrary to the settled principles of law as well as the rules

MANINDER
2022.09.21 17:04
I attest to the accuracy and
authenticity of this
ordrer/judgment

governing the service of the petitioner, hence, the petitioner is also entitled for the grant of interest on the delayed release of pensionary benefits.

Once it is a conceded position that the chargesheet issued to the petitioner was beyond the jurisdiction of the respondents, non release of the pensionary benefits by placing reliance on the said chargesheet was not in consonance with law or the rules governing the service of the petitioner. As per the settled principles of law as laid down by Hon'ble Full Bench of this Court in the case of ***A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, an employee is entitled for the grant of pensionary benefits within two months of his retirement in case there is no impediment, failing which the employee is entitled for the grant of interest on the delayed release of pensionary benefits. The relevant paragraph No.8 of the said judgment reads 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 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.*"

MANINDER
2022.09.21 17:04
I attest to the accuracy and
authenticity of this
ordrer/judgment

Further, a Coordinate Bench while passing order in ***CWP No.15867 of 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:-

> *"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."*

In the present case, even chargesheet was not issued within two months of petitioner's retirement but still his pensionary benefits were withheld, hence, case of the petitioner is squarely covered for the grant of interest keeping in view the judgments rendered in ***A.S.Randhawa's case (supra)*** and ***J.S.Cheema's case (supra).***

MANINDER
2022.09.21 17:04
I attest to the accuracy and
authenticity of this
ordrer/judgment

Keeping in view the fact that the chargesheet has already been quashed, the retiral benefits for which the petitioner is entitled for, be released to him within a period of two months from the receipt of copy of this order by following due process of law.

The petitioner is entitled for the grant of interest which shall be released to him @6% per annum from the date the pensionary benefits became due till the actual realization of the same.

Let this order be complied with within a period of two months from the receipt of copy of this order.

The petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

14.09.2022
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes

MANINDER
2022.09.21 17:04
I attest to the accuracy and
authenticity of this
ordrer/judgment