

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(222)

CWP No. 4183 of 2021

Date of Decision : 22.04.2022

Navraj Bahadur Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, D.A.G., Punjab.

Mr. Arjun Dev, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed claiming the interest on the delayed release of the pensionary benefits of the petitioner.

Learned counsel for the petitioner submits that the petitioner retired after availing extension for a period of two years on 28.02.2019. Learned counsel for the petitioner argues that there was no impediment in the release of the pensionary benefits of the petitioner but still, the pension of the petitioner was released by the respondents after a delay of approximately 10 months hence, petitioner is entitled for the grant of interest on the said delayed payment. Learned counsel further argues that keeping in view the settled principle of law settled by a Full Bench of this

Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,***

petitioner is entitled for the grant of interest as the pensionary benefits have been delayed by more than two months and that too without any impediment.

Upon notice of motion, the respondents have filed the reply, wherein, the respondents have conceded the dates on which the pensionary benefits have been released. Learned counsel for the respondents submits that a complaint was received in respect of the grant of certain benefits to the petitioner while he was in service and as the said complaint was being looked into, the pensionary benefits of the petitioner were withheld and, therefore, as soon as the grant of benefit was regularized by the Board of Directors, the pensionary benefits were released immediately thereafter, therefore since the complaint filed against the grant of benefit to the petitioner was under consideration, the same is a valid impediment so as to withhold the pensionary benefits of the petitioner. Learned counsel for the respondents further submits that the interest on CPF has already been extended to the petitioner.

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

As per the judgment of the Full Bench of this Court in **A.S. Randhawa's case (supra)**, where there is an inordinate delay and the delay is not justifiable, employee will be entitled for 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 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.”

The complaint against the petitioner as being argued to be a valid impediment, cannot be treated as an impediment. No rule has been brought to the notice of this Court, wherein, a mere pendency of a complaint by someone and that too with regard to the grant of service benefit, can be treated as a valid impediment so as to withhold pensionary benefits. Only the disciplinary proceedings or the criminal proceedings pending against an employee, can be treated as a valid impediment to withhold the certain benefits. Further, even the complaint, which was stated to be pending against the petitioner, has not been found tangible so as to decline any relief to the petitioner by the respondents themselves. That being so, the mere pendency of a complaint against an employee cannot be treated as a valid impediment so as to withhold the pensionary benefits.

Apart from this, a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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 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."

Keeping in view the above, as the pensionary benefits of the petitioner were withheld by the respondents beyond the period of two months, as settled by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, the petitioner has become entitled for the grant of interest. Even otherwise, as per the judgment of a co-ordinate bench of this Court in **J.S. Cheema's case (supra)**, the benefits, which were ultimately released to the petitioner, were withheld by the respondents and, therefore, on this account also, petitioner has become entitled for the grant of interest. The claim of the petitioner, keeping in view the settled principle of law noticed here-in-above, is allowed. The petitioner is held entitled for interest @ 6% per annum from the date the pensionary benefits became due till the release of the same. Let the calculation of the interest except CPF be done by the respondents within a period of two months and the amount so calculated be released to the petitioner within a period of one month thereafter.

Petition is allowed in above terms.

April 22, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes