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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CM-11754-CWP-2021 in/and
CWP-8905-2019
Date of Decision: 21.03.2022

Mukhtiar Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Virinder Kumar Shukla, Advocate,
for the applicant/petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

(Through Video Conference)

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HARSIMRAN SINGH SETHI J. (ORAL)

CM-11754-CWP-2021:

For the reasons mentioned in the application, the same is allowed and replication (Annexure P-12) to the written statement of respondents No.1 to 3 is taken on record, subject to all just exceptions.

CM-11662-CWP-2021:

For the reasons mentioned in the application, the same is allowed and replication to the written statement of respondent No.4 is taken on record, subject to all just exceptions.

CWP-8905-2019:

The present petition has been filed for release of the retiral benefits admissible to the petitioner after he was granted the concession of voluntary retirement on 31.01.2018.

Learned counsel for the petitioner submits that though during pendency of the present petition, all the benefits for which the petitioner was entitled upon his retirement, have already been released to him but as there is a delay in releasing the same, he is entitled for the grant of interest on the said delayed payments keeping in view the judgment of the Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, wherein it has been stated that an employee, who has not been released the pensionary benefits within a period of two months from superannuation if there is no impediment, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits.

Learned State counsel submits that as the petitioner did not submit his pension papers with the respondents within the required time, hence the delay in releasing the pensionary benefits is attributable to him only, which would disentitle him the grant of interest on the said delayed release of payments.

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

The only question which is left to be decided by this Court in the present case is that whether the petitioner is entitled for the interest on the delayed release of the retiral benefits to him or not. It is a settled principle of law laid down by the Full Bench of this Court while passing judgment in **A.S. Randhawa's case** (supra) that an employee who has not been released the pensionary benefits within a period of two months from superannuation 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 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. ...

- x - x -"

In the present case, keeping in view the letter dated 22.05.2019 (Annexure P-12) of the respondents, written by the Principal of Government Senior Secondary School, Kamal Ke (Moga), where the petitioner was working at the time of his retirement, addressed to the Office of District Education Officer, Moga, it is clear that the petitioner retired from services on 31.01.2018 and all his pensionary benefits were allowed to be released by the competent authority by 10.05.2018 and the approved pension papers had already been received in the School to be forwarded to the District Treasury for the release of the pensionary benefits, which fact has not been controverted by the respondent-State.

That being so, nothing has come on record that after

10.05.2018, when the competent authority had allowed the release of pensionary benefits in favour of the petitioner by computing the same, how the petitioner is liable for the delay in releasing the said payments. Rather, the wordings of the letter dated 22.05.2019 (Annexure P-12) clearly proves that the delay is on the part of the respondents themselves. Though the pensionary benefits of the petitioner were approved by the competent authority in May, 2018 but the same were only released to him in July, 2019 and November, 2019. Nothing has come on record that how after 10.05.2018 when the approved pension papers had already been received by the respondent-Department, the petitioner is responsible for the non-release of the said benefits, which amount already stood calculated and approved by the respondents themselves.

Keeping in view the facts and circumstances of this case, nothing can be attributed to the petitioner for the delay in release of pensionary benefits after the pensionary benefits were approved to be released to him by the authorities concerned in May, 2018 onwards.

Further, 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 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 payments 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 retiral benefits from 01.06.2018 till the actual payments were released to him.

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 within a period of four weeks thereafter.

21.03.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes