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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-9350-2019
Date of Decision: 21.03.2022

Amar Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mukesh Arora, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

(Through Video Conference)

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<u>HARSIMRAN SINGH SETHI J.</u> (ORAL)

The present petition has been filed for release of the pensionary benefits to the petitioner along with interest.

Learned counsel for the petitioner argues that the petitioner retired from service on attaining the age of superannuation on 31.01.2016 and at the said time, a disciplinary proceeding was pending against him due to which certain pensionary benefits of the petitioner were withheld.

Learned counsel for the petitioner further argues that though, the disciplinary proceeding came to an end on 31.01.2017, after the imposition of punishment upon the petitioner but still, the pensionary benefits were not released to him within a reasonable time, and therefore, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits, 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 becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits.

Learned State counsel submits that all the benefits for which the petitioner was entitled for, has already been released to him and therefore, as of now, no further payment is to be made and the delay which has occurred in the release of the pensionary benefits is totally procedural.

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

It is a conceded fact that on the date of retirement, there was a disciplinary proceeding pending against the petitioner hence, the respondents were justified in withholding his certain pensionary benefits, but after the said proceeding came to an end on 31.01.2017, there was no impediment left in releasing of the pensionary benefits of the petitioner, and therefore, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits, keeping in view the 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 -”

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, as the delay in releasing of the pensionary benefits to the petitioner is more than two months even after the completion of the disciplinary proceeding, the delay is attributable to the respondents which would entitle the petitioner for the grant of interest keeping in view the judgment cited hereinabove. Hence, the present petition qua the grant of interest is allowed, the petitioner is held entitled for interest at the rate of 6% per annum on the delayed payments of the retiral benefits from 01.04.2017 onwards 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)**
Bhumika **JUDGE**

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