IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.318 **CWP-19112-2021**
Date of Decision: 28.09.2022

Ravina and another .... Petitioners

Versus

Haryana Agro Industries Corporation Limited and others ... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anas Ahmad, Advocate for
Mr. R.N.Lohan, Advocate
for the petitioners.

Mr. Padamkant Dwivedi, Advocate
for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioners is that the service benefits including the gratuity and earned leave in respect of the service rendered by late father of the petitioners namely Jai Singh with the respondent-corporation have not been released, for which appropriate direction be issued to the respondents to release the same along with interest.

As per the averments made in the petition, Sh. Jai Singh retired on attaining the age of superannuation on 31.07.2013 but his pensionary benefits were not released despite the fact that there was no impediment in the release of the pensionary benefits at the time of his retirement. After a period of approximately 3 ½ years of his retirement, a chargesheet was served upon the late father of the petitioners on 13.01.2017, due to which the pensionary benefits of Jai Singh were retained by the respondents. Unfortunately, Jai Singh died on 18.02.2017 but even after his death, no action was taken in respect of the release of pensionary benefits or on the chargesheet which was served upon Jai Singh. Feeling aggrieved against the non release of the benefits in respect of the service rendered by Jai Singh, the present petition has been filed by the petitioners with the prayer that retiral benefits of Jai Singh be released along with interest.

After notice of motion, the respondents have appeared. Though, no reply has been filed but learned counsel for the respondents very fairly submits that after Jai Singh died in February, 2017, the chargesheet issued to him in January, 2017 has been dropped and decision has already been taken to release all the benefits admissible to Jai Singh. Learned counsel further submits that appropriate benefits will be released to the petitioners within a period of two months from today.

Learned counsel for the petitioners argues that as there was no impediment in the release of the pensionary benefits at the time of retirement of Jai Singh, his pensionary benefits could not have been withheld by the respondents keeping in view the judgment passed by this Court in ***CWP No.26406 of 2015*** decided on 06.11.2019, titled as ***Subha Chand versus State of Haryana and another.*** but the pensionary benefits were withheld by the respondents contrary to the settled principles of law and as the chargesheet which was issued to Jai Singh subsequent to his retirement has already been dropped hence, the petitioners are entitled for the release of pensionary benefits of their late father along with interest.

Learned counsel for the respondents has not been able to dispute the fact that at the time of retirement of Jai Singh, there were no proceedings pending against him, which would have given the jurisdiction to the respondent-corporation to withhold his pensionary benefits and as per the judgment in ***Subha Chand's case (supra)***, chargesheet issued after retirement can not be a valid ground to withhold the pensionary benefits.

Keeping in view the above said fact as well as the settled principles of law 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 release of pensionary benefits within a period of two months from the date of retirement in case, there is no impediment. Concededly, in the present case, there was no impediment in the release of pensionary benefits in respect of the service rendered by Jai Singh at the time of his retirement hence, the petitioners are entitled for the grant of interest as well on the delayed release of pensionary benefits. The relevant paragraph No.8 of the 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 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."*

Further, a Coordinate 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:-

> *"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."*

Keeping in view the above, not only the pensionary benefits are to be released to the petitioners in respect of the service rendered by

Jai Singh but the same be released along with interest @6% per annum from the date the pensionary benefits became due till the actual release of the same.

Petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

28.09.2022
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No