

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Sr. No.259

CWP No.10403 of 2021

Date of Decision: 27.05.2022

Tarsem Sehgal

.... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner is entitled for the grant of interest on the delayed release of pensionary benefits.

As per the facts mentioned in the petition, the petitioner retired from service after availing two extensions in service on 31.05.2016. On the date when the petitioner retired, there was a chargesheet pending against the petitioner issued upon him vide letter dated 23.05.2016. Keeping in view the said fact, all the pensionary benefits for which the petitioner was entitled for, were not released to him and the same were withheld. Ultimately, after holding the enquiry of the allegations, the respondents decided on 14.01.2019 to drop the said chargesheet. After dropping of the said chargesheet, the benefits withheld by the respondents, were released to the petitioner. The claim of the petitioner is that as the petitioner retired on 31.08.2016 and the benefits were released to him after more than three years of his retirement, the petitioner is entitled for the grant of interest on delayed

Upon notice of motion, the respondents have filed reply, wherein the respondents have stated that as disciplinary proceedings were pending against the petitioner on the date of his retirement, the respondent were well within their jurisdiction to withhold certain pensionary benefits of the petitioner and after the said chargesheet was dropped on 14.01.2019, the remaining benefits were released to the petitioner and therefore, the petitioner can not claim the benefit of interest .

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

No doubt, on the date when the petitioner retired, there was a chargesheet pending against him but, the respondents failed to prove the said charges and ultimately, in January, 2019 the said chargesheet was withdrawn. Therefore, the issuance of the complaints or pendency of the same cannot cause prejudice to the petitioner. The acts which are attributable to the respondents cannot cause prejudice to an employee, firstly by withholding the pensionary benefits on the basis of pendency of the complaints issued by the Department alleging certain allegations and thereafter, by denying the grant of interest on the delayed payments, despite the fact that the employee was found innocent as the Department concerned itself dropped those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his retiral benefits upon his retirement for a

sufficient long period of time and petitioner could not use those financial benefits to his benefit, the petitioner becomes entitled for the grant of interest on the delayed payments to mitigate the prejudice/hardship suffered by him, which is in consonance with the settled principle of law.

Even otherwise, as per the judgment of a Coordinate Bench of this Court in CWP-15867-2001 titled as “J.S. Cheema Vs. State of Haryana and others”, decided on 20.11.2013, held that where an amount belonging to the employee is retained by the department, the employee becomes entitled for the grant of interest on delayed release of pensionary benefits. 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, in the facts and circumstances of the present case, the petitioner is entitled for a grant of interest on the delayed

release of pensionary benefits, which is assessed @ 6% per annum from the date the said pensionary benefits became due till the final release of the same. Let the amount of interest under this order be calculated within a period of two weeks from receipt of copy of this order and the amount so calculated be released within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

27.05.2022
Maninder

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