IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(279) **CWP-11798-2021**
Date of Decision : May 12, 2022

Rakesh Kumar Singla **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.S. Jaidka, Advocate, for the petitioner.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

Mr. Simardeep Singh Bedi, Advocate, for respondents No. 2 to 4.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for quashing of the order dated 08.05.2020 (Annexure P-2) by which the claim of the petitioner for the grant of interest on the delayed release of the pensionary benefits, has been declined by the respondents.

Learned counsel for the petitioner argues that in the present case, the petitioner retired from the service on 31.08.2018. Learned counsel for the petitioner submits that after the retirement of the petitioner, a charge sheet was issued to the petitioner due to which the pensionary benefits of the petitioner were not released to him but later on, the said charge sheet was dropped on 06.11.2019 and the leave encashment and other pensionary benefits were released to the petitioner on 18.10.2019. Learned counsel for the petitioner further submits that as the delay in release of the pensionary benefits is upon the respondents-department, the petitioner is entitled for the grant of interest on the delayed payments.

Learned counsel appearing on behalf of the respondents submits that once, there was a charge sheet pending against the petitioner after the retirement and the said charge sheet only attained finality on 06.11.2019, the benefits were released even prior to the finality of the said charge sheet, the petitioner is not entitled for the grant of interest.

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

Once, it is a conceded position that on the day when the petitioner retired, there was no charge sheet pending against the petitioner, the respondents could not have withhold the pensionary benefits of the petitioner merely on the ground that subsequent to the retirement, a charge sheet was issued to the petitioner. Even otherwise, in charge sheet which was issued to the petitioner after the retirement, the petitioner was found innocent. That being so, the delay is attributable to the respondents.

Once the Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled for upon his superannuation was withheld, and thereafter, the Department failed to substantiate those allegations, hence, the issuance of the charge sheets or pendency of the same at the time of retirement cannot be a reason to cause prejudice to the petitioner. The acts which are attributable to the respondents cannot cause prejudice to an employee by firstly withholding his pensionary benefits on the basis of pendency of the charge sheets issued by the Department alleging certain allegations and thereafter, by denying him the grant of interest on the delayed payments, despite the fact that the employee was found innocent as the Department concerned failed to prove those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations alleged and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his pensionary benefits upon his retirement for a sufficient long period of time and also 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 of settled principle of law.

A Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

> *"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, the present petition is allowed and the petitioner is held entitled for interest on the delayed release of the pensionary benefits @ 6% per annum from the date the pensionary benefits became due till the actual release of the same. Let the same be computed and released to the petitioner within a period of two months from the receipt of certified copy of this order.

Learned counsel for the petitioner submits that the petitioner is not pressing the petition for the grant of enhance gratuity for which he seeks liberty to approach the appropriate authority.

Ordered accordingly.

May 12, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No