

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(287)

CWP No. 12837 of 2021

Date of Decision : 17.05.2022

Balwant Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Sushma Verma Syal, Advocate for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Mr. Padamkant Dwivedi, Advocate for
respondents No. 3 to 5.

Harsimran Singh Sethi J. (Oral)

Learned counsel for respondents No. 3 to 5 submits that the reply already filed on behalf of respondents No. 3 and 4 be taken as reply on behalf of respondent No. 5 also.

In the present petition, the grievance of the petitioner is that the pensionary benefits were released to the petitioner after a delay and keeping in view the judgment of the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

Learned counsel for the petitioner argues that the petitioner submitted an application seeking voluntary retirement vide letter dated

request was not accepted by the respondents until the passing of the order dated 09.06.2020 (Annexure P-2) by which the petitioner was given the benefit of voluntary retirement w.e.f. 31.07.2020 but the pensionary benefits were not released to the petitioner within a reasonable time of retirement as, the gratuity as well as leave encashment was paid to the petitioner on 17.11.2020 whereas, the pension along with arrears was paid starting from April, 2021. Learned counsel for the petitioner argues that keeping in view the said delay, which is attributable to the respondents only, the petitioner may kindly be granted the benefit of interest so as to compensate the said delay.

Learned counsel for the respondents submits that at the time when the petitioner submitted the request, the pandemic of Covid-19 started, due to which, petitioner's request could not be accepted immediately but the same was accepted from 31.07.2020 and thereafter, all the efforts were made to release the pensionary benefits but the delay is only procedural. Learned counsel for the respondents submits that the service book of the petitioner was not complete, which delayed the release of the pensionary benefits and, therefore, the petitioner is not entitled for interest.

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

In the present case, the question as to under what circumstances, the employee is entitled for interest in case, retiral benefits have been released after a delay, has already been settled by the Full Bench of this Court in *A.S. Randhawa's case (supra)*, according to which, an employee is entitled for release of the pensionary been within a reasonable

employee will be entitled for the grant of interest. The relevant paragraph of 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 retiree 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.”

In the present case, the release of the pensionary benefits to the petitioner was beyond the reasonable time fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)** and nothing has been brought to the notice of this Court that there was any impediment, which would justify the delay in release of the pensionary benefits hence, respondents themselves are liable for the delay, which has occurred in the release of the pensionary benefits.

Apart from this, a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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 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."

The question, which the respondents have raised that the service book of the petitioner was not complete, which has resulted in delay, is also attributable to the respondents as it is the duty of the respondents to maintain the service book and the same is not the duty of the petitioner. That being so, the same cannot be treated as any impediment in the release of the pensionary benefits.

Keeping in view the above, the prayer of the petitioner is allowed for the grant of interest on the delayed release of pensionary benefits. Petitioner is held entitled for interest @ 6% per annum from the date the pensionary benefits became due till the release of the same. Let the amount of interest under this order be calculated by the respondents within a period of two months of the receipt of copy of this order and the amount so calculated be released to the petitioner within a period of four weeks thereafter.

Petition is allowed in above terms.

May 17, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

✓
Whether speaking/reasoned : Yes/No

✓
Whether reportable : Yes/No