

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-13441-2021

Date of Decision: 14.03.2022

Mohinder Singh and others

..... Petitioners

Versus

Punjabi University, Patiala and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hardeep Singh, Advocate,
for the petitioners.

Mr. Abhinav Gupta, Advocate,
for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed seeking grant of interest on the delayed pensionary benefits released to the petitioners.

Learned counsel appearing on behalf of the petitioners argues that though the petitioners had retired on different dates, starting from the year 2019 till 2020, but their pensionary benefits were not released within a reasonable period of time, as fixed by the Full Bench of this Court in “**A.S. Randhawa Vs. State of Punjab and others**”, 1997(3) SCT 468, therefore, the petitioners are entitled for the grant of interest on the delayed pensionary benefits released to them. Learned counsel for the petitioners submits that in the similar circumstances, this Court while passing order in **CWP-8914-2018**, titled as “***Gurdeep Singh and others Vs. Punjabi University, Patiala and another***”, decided on 01.02.2019, granted the interest on the delayed payments to the petitioners therein, keeping in view the fact that the said

delay is attributed to the respondent-University therein.

Learned counsel for the petitioners further submits that keeping in view the fact that it is a conceded position that the pensionary benefits have been released to the petitioners after a period of two months of their retirement and that too without there being any impediment, the case of the petitioners is squarely covered by the judgment passed in **A.S. Randhawa's case** (supra).

Learned counsel for the respondent-University submits that though there is a delay in releasing the pensionary benefits to the petitioners but the same was not intentional, in fact delay was caused due to the financial difficulties being faced by the respondent-University and financial situation was such that the retiral benefits of the petitioners could not be released to them within the reasonable period of time after retirement, therefore, keeping in view the said aspect, prayer of the petitioners for the grant of interest on the said delayed payments may kindly be declined.

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

As per the judgment of the Full Bench of this Court passed in **"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468**, the pensionary benefits are to be released within a period of two months from the date of superannuation, in case there is no impediment. By applying ratio of the said judgment, even if there is any impediment and the same is cleared at a later stage then also within a period of two months of clearing of the said impediment, an employee has to be given the all pensionary benefits.

A bare perusal of the above would show that the aforesaid

judgment squarely covers the case of the present petitioners as the delay in releasing the pensionary benefits to them by the respondent-University is more than of two months and that too without there being any impediment, hence the petitioners are entitled for the grant of interest on the said delayed payments.

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:-

“ $x \quad \text{--} \quad x \quad \text{--} \quad x$

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.

$$x \quad \quad \quad x \quad \quad \quad x''$$

In the present case also, the amount which was retained by the

respondent-University has been used by it to its benefit and hence, the case of the petitioner for grant of interest on the delayed payments is covered by the above said ratio given by the learned co-ordinate Bench of this case.

Further, the ground taken by the respondent-University that it was due to financial difficulties being faced by the respondent-University, delay in releasing the pensionary benefits to the petitioners occurred, the said reason is not in consonance with the law settled by the judgment passed by the Division Bench in **CWP-14426-2003** titled as **“Ram Karan Vs. Managing Director, PEPSU Road Transport Corporation and another”**, decided on 16.08.2005. The relevant paragraph of the said judgment is as under:-

“ - x - x -

8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in [Article 21](#) of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food,

clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of [Chameli Singh v. State of U.P.](#) , has held as under:

"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society.

xx xx xx xx

Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being....."

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the

Constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, Ratlam, (1980)4 S.C.C. 163, B.L. Wadhera v. Union of India, , All India Imam Organisation and Ors. v. Union of India and Ors., , Kapila Hingorani v. State of Bihar, 2003 (3) R.S.J. 42. As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:

"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they are being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created."

- x - x -"

Keeping in view the above, the petitioners have made out a case for the grant of interest on the delayed release of pensionary benefits to them, hence the present petition is allowed with a direction to the respondents to grant petitioners the interest at the rate of 9% per annum on

the delayed payments of the pensionary benefits from the date when such amounts became due upto the date when the same were released to them.

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 petitioners within a period of four weeks thereafter.

14.03.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : No