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

(109+283) **CWP No. 13704 of 2021 (O&M)**
Date of Decision : 14.09.2022

Ram Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Ravi Sharma, Advocate for respondent No. 3.

Mr. Chandeep Singh, Advocate for respondent No. 5.

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Harsimran Singh Sethi J. (Oral)

CM-10024-CWP-2022

Present application has been filed for placing on record written statement filed on behalf of respondent No. 5.

Application is allowed and written statement filed on behalf of respondent No. 5 is taken on record.

CWP-13704 of 2021

Written statement on behalf of respondent No. 4 has been filed in Court today. The same is taken on record.

In the present petition, the grievance of the petitioner is that the petitioner is not being paid the pensionary benefits as per his entitlement keeping in view the recommendations of 6^{th} as well as 7^{th} pay commission.

As per the averments made in the petition, the petitioner retired from service on 30.11.2008 and pension of the petition was fixed at ₹1913/- vide PPO No. 153703-S/HR dated 10.11.2008 and since the said date, the petitioner was receiving the pension amounting to ₹1913/-.

The 6th pay commission recommendations were implemented by the State of Haryana w.e.f. 01.01.2006 but the pension of the petition was not revised till 20.01.2010 when the same was revised from ₹1913/- to ₹3500/-. Thereafter, keeping in view the recommendations of the 7th pay commission, which were implemented w.e.f. 01.01.2016, no benefit of the same was extended to the petitioner, which grievance has been raised by the petitioner in the present petition.

After notice of motion, the respondents have filed the reply. In the reply filed on behalf of respondent No. 4, it has been mentioned that the petitioner could not be given the benefit of 5th, 6th as well as 7th pay commission recommendations keeping in view the fact that Pension Payment Order of the petitioner was lost by the bank and the same was re-constructed and as of now, the petitioner has already been given the benefit of revised pension according to the recommendations of 5th, 6th and 7th pay commission vide letter dated 18.12.2021 and his pension has been increased to ₹9,000/- and the petitioner has already been paid the arrears of ₹3,90,594/-, which were paid to him on 01.12.2021.

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

Though, the substantial grievance of the petitioner has been redressed by the respondents with regard to the revising of his pension according to the recommendations of the 5th, 6th and 7th pay commission and also extending him the arrears of pension but, the question is whether extending of the amount in the year 2021, which the petitioner was entitled for in the year 2006/2016 keeping in view the recommendations of the 6th and 7th pay commission, the petitioner will be entitled for the grant of interest or not.

From the reply, it transpires that the respondents did not grant the petitioner the revised pension on the ground that the PPO issued in favour of the petitioner at the time of the retirement was not available with the respondents and the same was lost by them. Keeping a document within their custody, is the job of the respondent/employer and not that of the petitioner.

Once, the recommendations of the 6th as well as 7th pay commission were accepted by the respondents, it became the duty of the respondents to revise the pensionary benefits of the petitioner and extend the same to him without any delay. The delay in the present case is approximately 15 years. The revised pension which the petitioner would have got as per recommendations of 6th pay commission w.e.f. 01.01.2006 has only been extended to him in December, 2021. The similar is the case with regard to the 7th pay commission as the revised pension, which the petitioner would have got w.e.f. 01.01.2016 was also paid in December, 2021. The delay, in the facts and circumstances of this case is totally attributable to the respondents.

A Co-ordinate 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."*

Keeping in view the facts and circumstances of the present case coupled with the law cited hereinbefore, the petitioner is held entitled for the interest also on the arrears, which have been released to the petitioner now in December, 2021 @ 6% per annum from the date, the revised pension became due in pursuance to the acceptance of recommendations of 6th as well as 7th pay commission till the date the same was paid.

Petition is allowed in above terms.

September 14, 2022 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No