258 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

****

CWP-13310-2020
Date of Decision: 30.05.2022

Ram Dutt Sharma

..... Petitioner

Versus

BPS Mahila, Vishwavidyalaya and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Malik, Advocate, for the petitioner.
Mr. Sudarshan Kumar, Advocate, for respondents No.1 and 2.
Mr. Narender Singh Behgal, AAG, Haryana.

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HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, prayer of the petitioner is for the grant of interest on the delayed release of pensionary benefits to him.

On the last date of hearing, the following order was passed:-

> *"Learned counsel for respondents No.1 and 2 seeks further time to file the reply.*
>
> *Adjourned to 30.05.2022.*
>
> *It is made clear that no further opportunity will be granted.*
>
> *In case, no reply is filed on the next date of hearing, appropriate orders on the prayer of the petitioner will be passed."*

No reply has been filed by the respondents, despite last opportunity being granted on the last date of hearing.

This Court has no other option but to pass the order without reply of the respondents on record.

Learned counsel for respondents No.1 and 2 submits that though there is a delay in releasing the retiral benefits of the petitioner, but

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the said delay was only due to the fact that the service book of the petitioner was not completes and the delay is procedural one.

In the present petition, the petitioner retired on 31.01.2018. As per the settled principle of law laid down by the Full Bench of this Court while passing judgment in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, an employee who has not been released the pensionary benefits within a period of two months from superannuation, in case there is no impediment, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits. The relevant paragraph of the said judgment is as under:-

> *" - x - x -*
>
> *8. 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 retirer 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. ...*
>
> *- x - x -"*

Further, a co-ordinate Bench of this Court, while passing order in **CWP-15867-2001** titled as ***"J.S. Cheema Vs. State of Haryana and***

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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 -- x -- 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 -- x -- x"*

In the present case, the reason being given by the respondents to cover up the delay in releasing the retiral benefits to the petitioner is that his service-book was not complete. The employee is not required to complete his service-book and completion of the same is the job of the employer. Once the petitioner retired from the services of the respondent-Department in January, 2019, the payments with regard to the retiral benefits, for which he was entitled for, should have been made to him within a period of two months from his retirement, which is not the case

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here. The delay in releasing the retiral benefits to the petitioner is totally attributable upon the respondents, for which action of the respondents, the petitioner needs to be compensated.

Keeping in view the above, the petitioner has made out a case for the grant of interest on the said delayed release of retiral benefits to him by the respondents at the rate of 6% per annum from the date the said benefits became due till the date, when the said pensionary benefits were actually released to him.

Let the calculation of the interest under this order be done by the respondent concerned within a period of two months from the date of receipt of the copy of this order and the amount so calculated, be released to the petitioner within a period of four weeks thereafter.

Further in case, any other grievance of the petitioner remains to be redressed, petitioner is at liberty to raise the said grievance before the authorities concerned by filing an appropriate representation and the respondents are directed that in case any such representation is filed by the petitioner, the same be considered in accordance with law and the said representation be decided by the authorities concerned by passing an appropriate speaking order within a period of eight weeks from the date of receipt of such representation.

Allowed in the above terms.

30.05.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

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

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