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

**CWP No.15283 of 2019
Date of Decision:-24.03.2022**

Varinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Raj Kumar Chandna, Advocate for the petitioner.

Mr. Kannan Malik, AAG, Punjab.

HARSIMRAN SINGH SETHI J.(Oral)

In the present petition, the challenge is to the order dated 16.4.2019 (Annexure P-6) declining grant of interest on the delayed release of pensionary benefits to the petitioner.

Learned counsel for the petitioner argues that while the petitioner, who was working as Superintendent Grade-I in the office of Deputy Commissioner, Moga, he was served with a charge-sheet in the year 2017. Thereafter, the inquiry was conducted qua the said charge-sheet and in the meantime the petitioner attained the age of superannuation and retired on 31.03.2017. Learned counsel for the petitioner argues that the respondents inquired into the allegations mentioned in the charge-sheet and ultimately found the petitioner innocent and the charge-sheet was dropped

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by the respondents on 05.10.2018, after which, the pensionary benefits admissible to the petitioner were released, details of which have been given in paragraph 3 of the reply.

Learned counsel for the respondent-State submits that as the charge-sheet was pending against the petitioner, the respondents were well within the right to withheld certain pensionary benefits and petitioner cannot claim the interest on the same as the rejection of the said claim was perfectly valid and legal.

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

It is a matter of fact that the retiral benefits of the petitioner were withheld by the respondent, after the petitioner superannuated on 31.03.2017, due to pendency of the charge-sheet against him. It is a conceded position that the allegations alleged in the said charge-sheet could not be proved against the petitioner and he was found innocent, and therefore, the charge-sheets was dropped by the respondent itself.

Once the Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled upon his superannuation was withheld, and the Department failed to substantiate those allegations, therefore, the issuance of the charge-sheet or pendency of the same cannot cause prejudice to the petitioner. The acts which are attributable to the respondent cannot cause prejudice to an employee whose pensionary benefits were first withheld on the basis of pendency of the charge-sheet issued by the Department and thereafter upon the department failing to prove the allegations alleged in the charge-sheet,

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by denying him the interest on the delayed payments.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations 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 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 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 Government 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*

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> *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 also, the amount which was retained by the respondent-Department under the pretext of pendency of the disciplinary proceedings against the petitioner has been used by the Department 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 Court.

In view of the above, the present petition is allowed and the impugned order dated 16.04.2019 (Annexure P-6) is set aside with a direction to the respondent to grant petitioner the interest at the rate of 6% per annum on the retiral benefits from the date when he retired upto the date when his retiral benefits were actually released to him.

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 petitioner within a period of two weeks thereafter.

The petition stands allowed accordingly.

March 24, 2022 **(HARSIMRAN SINGH SETHI)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No

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