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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-16035-2021
Date of Decision: 19.04.2022

Nirmala Devi

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arav Gupta, Advocate, and
Ms. Priya Aggarwal, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab,
for respondents No.1 and 2.

Ms. Aparna Singhal, Advocate, for
Mr. Sarthak Gupta, Advocate,
for respondent No.4.

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<u>HARSIMRAN SINGH SETHI J.</u> (ORAL)

In the present petition, prayer of the petitioner is for the grant of interest on the delayed release of pensionary benefits, which prayer has been rejected by the respondents, vide impugned order dated 05.02.2021 (Annexure P-14).

Learned counsel for the petitioner argues that the petitioner had joined the service of the respondent-Department on 31.03.1981 and upon attaining the age of superannuation, she retired on 28.02.2019, while she was working on deputation with respondent No.4, i.e. Bhakra Beas Management Board, Jalandhar. After her retirement, she requested for release of her pensionary benefits but the same was not done by the respondents.

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Learned counsel for the petitioner further argues that there was no charge-sheet pending against the petitioner at the time of her retirement, which would entitle the respondents to withhold her pensionary benefits, and therefore, keeping in view the settled principle of law as laid down by the Full Bench of this Court while passing its judgment 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 to her by the respondents, which was done in December, 2020.

Upon notice of motion, respondents No.1 and 2 have filed the reply.

Learned counsel appearing on behalf of respondent No.4 submits that as the petitioner was working on deputation with respondent No.4-Board, therefore respondent No.4 has no role to play in the grant of pensionary benefits to the petitioner, which is to be issued by respondents No.1 and 2.

Learned counsel for respondents No.1 and 2 submits that though there is a delay in releasing the pensionary benefits of the petitioner but the same was not intentional and rather the procedural one as the Office of the Accountant General, Punjab, has raised objections more than once with regard to the sanction of the pension and other pensionary benefits to the petitioner. The approval for sanctioning the pensionary benefits of the petitioner was given by the Accountant General, Punjab, only in September, 2020, and the said pensionary benefits were released in her favour immediately thereafter. Hence, the petitioner is not entitled for the grant of interest on the delayed release of pensionary benefits, as being claimed by her in the present petition.

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

It is a settled principle of law as laid down by the Full Bench of this Court in **A.S. Randhawa's case** (supra) that 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 -"*

In the present case, no impediment has been brought to the notice of this Court which entitle the respondents to withhold the pensionary benefits of the petitioner. The stand of respondents No.1 and 2 is only that the delay in releasing the pensionary benefits of the petitioner was

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procedural one. The procedure cannot cause prejudice to an employee in seeking his/her pensionary benefits and it is the responsibility of the Department concerned to complete the required procedure within a period of two months of the date of retirement of the employee as held in **A.S. Randhawa's case** (supra).

In the present case, the respondents have taken more than one year and eight months to release the pensionary benefits of the petitioner, and therefore, the petitioner becomes entitled for the grant of interest on the said delayed release of payments.

Even otherwise, 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 -- 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*

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> *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"*

Keeping in view the above, the present petition is allowed by setting aside the impugned order dated 05.02.2021 (Annexure P-14), passed by respondent No.2, and the petitioner is held entitled for the grant of interest on the delayed release of the pensionary benefits to her at the rate of 6% per annum from the date the said amount became due till the date of actual payment of the same to the petitioner.

Let the computation of interest, for which the petitioner becomes entitled for under this order, be done by respondents No.1 and 2 within a period of two months from the date of receipt of the copy of this order and the interest so calculated be paid to her within a period of next four weeks.

19.04.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes

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