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

**210** **CWP-10550-2015**
**Date of Decision :11.07.2022**

**Balwant Singh** **..Petitioner**

**Versus**

**State of Haryana and others** **...Respondents**

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

Present: Mr. Som Nath Saini, Advocate for
Mr. S.K. Verma, Advocate for the petitioner.

Mr. Kiranpal Singh AAG, Haryana
assisted by Mr. Sukhdev Singh, Deputy Superintendent
from the O/o Director, Development and Panchayat, Haryana.

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***Harsimran Singh Sethi, J. (Oral)***

In the present writ petition, the grievance of the petitioner is that the petitioner retired from service on attaining the age of superannuation on 30.06.2011 but, the pensionary benefits of the petitioner were withheld by the respondents despite the fact that there was no impediment in the release of the same. Prayer of the petitioner is for the release of his pensionary benefits along with interest @ 18% per annum.

After notice of motion, respondents have filed reply, wherein it has been mentioned that the petitioner was facing an FIR No.12 dated 02.08.2005 under Sections 409, 420, 467, 468, 471 and 120 B of the IPC on the date, when he retired from service and, therefore, keeping in view the pendency of the criminal proceedings against the petitioner, gratuity and the commutation of pension was withheld by the respondents.

Learned counsel for the petitioner argues that withholding of the said benefits by the respondents is arbitrary, for the reason that no charges were framed against the petitioner in the said FIR upto the date of the retirement of the petitioner and rather in the challan submitted by the Investigating Agency, the petitioner was kept in column No.2 and, therefore, the respondents did not had any jurisdiction to withhold the pensionary benefits of the petitioner on the date, when he retired from service. Learned counsel for the petitioner further argues that as the pensionary benefits of the petitioner should have been released by the respondents in the year 2015, the petitioner is also entitled for the grant of interest for the delayed release of his pensionary benefits.

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

As per the judgment of Hon'ble Supreme Court of India in **Civil Appeals No.3018-21 of 1987** titled as **Union of India vs. K.V. Jankiraman,** merely registration of an FIR cannot be treated as pendency of the criminal proceedings and the criminal proceedings can only be stated to be pending in case the charges are framed against an accused. In the present case, no charges were ever framed against the petitioner and rather he was kept in column No.2 by the Investigating Agency and, therefore, withholding of the pensionary benefits of the petitioner by the respondents by treating the FIR as pendency of criminal proceedings against the petitioner is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in **K.V. Jankiraman's case (supra).**

A Full Bench of this Court in ***A.S. Randhawa Vs. State of***

***Punjab and others, 1997(3) SCT 468***, has held that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case there is no impediment in the release of the same. The relevant paragraph of said judgment is as under:-

> *"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 front 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."*

In the present case, there was no impediment in the release of the pensionary benefits of the petitioner by the respondents, keeping in view the facts and circumstances as noticed hereinbefore, therefore, withholding of the pensionary benefits of the petitioner by the respondents is beyond their jurisdiction and the petitioner is held entitled for the grant of interest for the delay in releasing of his pensionary benefits by the respondents @ 6% per annum from the date the same became due till the actual payment is released. Let the computation of interest be done by the respondents within a period of two months from the receipt of copy of this order and the amount so calculated shall be paid to the petitioner within a period of four weeks thereafter.

The writ petition is allowed in above terms.

**July 11, 2022** **(HARSIMRAN SINGH SETHI)**
*aarti* **JUDGE**

*Whether speaking/reasoned : Yes/No*
*Whether reportable : Yes/No*