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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-12984-2016
Date of Decision: 08.03.2022

Dharambir

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Chaudhary, Advocate, for
Mr. K.L. Dhingra, Advocate,
for the petitioner.

Mr. Adwiteya Grover, Advocate,
for the respondents.

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

The present petition has been filed praying for a direction to the respondents to release the complete pensionary benefits of the petitioner along with interest on the delayed payment, which are not being released by the respondents, despite the fact that the petitioner has already retired on 30.09.2015 and more than six and a half years have been elapsed since then.

Learned counsel for the petitioner submits that the petitioner is being paid 75% of the pension and his leave encashment and gratuity have not been released by the respondents. Learned counsel further submits that as now, there is no impediment in the release of the complete pensionary benefits, therefore, appropriate direction may kindly be issued to the respondents for releasing the same without any further delay.

Learned counsel appearing on behalf of the respondents submits that as per the reply filed by them, there were four charge-sheets and one Show Cause Notice pending against the petitioner on the date when he superannuated from service and keeping in view the pendency of those proceedings, the petitioner was only given 75% of the provisional pension and his gratuity as well as leave encashment was withheld. Learned counsel further submits that as of now, he does not have any instructions that whether those proceedings have already been finalised or not.

Learned counsel for the petitioner submits that the proceedings which were stated to be pending on the date when the petitioner superannuated, i.e. on 30.09.2015, have already attained finality as two charge-sheets have been dropped by the respondents and with regard to the other proceedings, appropriate orders imposing punishments have already been passed. Learned counsel also submits that two charge-sheets were dropped by the respondents on 30.09.2016 and the other two charge-sheets and one Show Cause Notice were decided in the year 2017. The last order passed on the proceedings pending against the petitioner was in March, 2017, i.e. approximately five years ago. These orders were produced before this Court during the hearing.

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

Prima facie, the orders which have been produced by learned counsel for the petitioner today shows that the proceedings which were pending against the petitioner on the date of his superannuation, which was the basis of withholding his pensionary benefits and only extending him the provisional pension, have already reached finality. That being so, there appears to be no justification in withholding the complete pensionary benefits of the petitioner after March, 2017, as no material has been brought to the notice of this Court, which will justify the withholding of pensionary benefits upto March, 2017.

As per the judgment of the Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, the pensionary benefits are to be released within a period of two months from the date of superannuation, in case there is no impediment. By applying ratio of the said judgment, even if there is any impediment and the same is cleared at a later stage then also within a period of two months of clearing of the said impediment, an employee has to be given the all pensionary benefits. The last order passed, while deciding the disciplinary proceedings pending against the petitioner, is of March, 2017. Despite the fact that five years have already elapsed since then, the pensionary benefits have not been released to the petitioner. There cannot be any justification for the said default of the respondents.

Keeping in view the above, the direction is issued to the respondents to release all the pensionary benefits of the petitioner forthwith without any further delay, in case there is no impediment.

Further as per the judgment of the Full Bench of this Court passed in ***A.S. Randhawa's case*** (supra), an employee who has not been released the pensionary benefits within a period of two months from superannuation becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits. In the present case, after the disciplinary proceedings came to an end in March, 2017, the pensionary benefits should have been released to the petitioner by June, 2017, but as the same has not been done by the respondents even as of now, the petitioner has become entitled for the grant of interest on the said non-released pensionary benefits as the delay is totally attributable to the employer, keeping in view the facts and circumstances which have been noticed hereinbefore.

By applying ratio of the judgment passed by a co-ordinate Bench in **CWP-15867-2007** titled as ***"J.S. Cheema Vs. State of Haryana and others"***, the petitioner becomes entitled for the grant of interest on the amount belonging to him, which has been retained by the respondents and used to their benefits, since March, 2017 onwards. Relevant points of the judgment are as under:-

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

Keeping in view the above, it is directed that while releasing the pensionary benefits of the petitioner along with arrears forthwith, petitioner will also be entitled for the grant of interest at the rate of 9% per annum starting from 01.06.2017 till the date payments are released.

The present petition stands allowed in the above terms.

08.03.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

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