

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110+251)

CWP No. 16844 of 2021(O&M)
Date of Decision : 07.04.2022

S.S. Pannu and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Thakan, Advocate for the petitioners.

Mr. Narender Singh Behgal, A.A.G., Haryana.

Mr. Rajesh Gaur, Advocate for respondent No. 4.

Harsimran Singh Sethi J. (Oral)

CM-4389-2022

Present application has been filed for placing on record the short reply filed on behalf of respondent No. 4.

Application is allowed and short reply filed on behalf of respondent No. 4 is taken on record.

CWP-16844-2021

The present petition has been filed with a prayer that petitioners were not given the correct fixation of their pay upon revision of the pay scale as on 01.01.2016.

Learned counsel for the petitioners argues that petitioners were entitled for fixation of their basic pay at ₹91,100/- whereas, the same was

fixed at ₹86095/-, which act of the respondents was causing prejudice to the petitioners as they were being paid less salary than their entitlement. Learned counsel for the petitioners submits that as the petitioners have already retired from their services, the said discrepancy of fixing their correct pay has also been reflecting while calculating their pensionary benefits as, the correct basic pay has not been taken into consideration while calculating their pensionary benefits and, therefore, the respondents are under obligation to grant the petitioners the correct fixation of their pay w.e.f. 01.10.2016 onwards and the consequential relief of granting the petitioners the pensionary benefits including the pension for which they are entitled for.

Upon notice of motion, the respondents have filed their reply. In the reply, the respondents have conceded the claim of the petitioners. The relevant para 2 of the reply is as under :-

“2. It is respectfully submitted that the revision of pension of both petitioners was re-processed on 01.02.2022 on the basis of clarification notification dated 26.11.2021 by Govt. of Haryana. The pension got revised Rs. 91,100/- as claimed by the petitioner. The sum of Rs. 2,80,930/- and Rs. 2,80,937/- has been paid as arrears to petitioner No. 1 (Sh. S.S. Pannu) and petitioner No. 2 (Sh. R.K. Goyal) respectively. The requisition of petitioners is duly accepted and settled. The copy of clarification notification of Govt. of Haryana (Annexure R-1) and PPOs of both petitioners enclosed herewith (Annexure R-2 and R-3) for kind consideration.”

Learned counsel for the respondents submits that all the benefits for which the petitioners are entitled for including the arrears of salary and re-fixation of pensionary benefits have been advanced to the

petitioners and no further claim of the petitioners survives.

Learned counsel for the petitioners submits that as the petitioners were not being paid their correct salary starting from 01.01.2016 onwards and the consequent pension upon their retirement and the amount, which has been given to them now, was withheld by the respondents and that too without any valid justification, the petitioners are entitled for the grant of interest on the said arrears of salary/pensionary benefits.

Learned counsel for the respondents submits that as the mistake was not intentional but inadvertent and the same has already been rectified, no ground is made out to grant the interest on the arrears, which have been advanced to the petitioners.

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

Once, an amount belonging to the petitioners was retained by the respondents and was used to their benefits and the petitioners were denied the said benefit and rather they were forced to approach this Court to seek the same, the petitioners are entitled for interest on the arrears, which have been computed by the respondents in pursuance to the correct fixation of the salary as well as the pensionary benefits. A Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification.

The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

“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 lying 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."

Keeping in view the above, the prayer of the petitioners is allowed qua the grant of interest and the petitioners are held entitled for interest @ 6% per annum from the date the amount including basic pay and pensionary benefits had become due till the release of the same. Let the computation of the amount in respect of the interest upon the arrears of pay/pensionary benefits be calculated by the respondents within a period of two months and the amount so calculated be paid to the petitioners within a period of one month thereafter.

Petition is allowed in above terms.

April 07, 2022
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No