IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217 **CWP-14807 of 2015**
Date of Decision: 30.08.2022

Rajinder Singh

......Petitioner

Versus

State of Haryana and others

.........Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.K. Sharma, Advocate, and
Mr. Rajat Sharma, Advocate,
for the petitioner.

Mr. R.S. Budhar, Addl.A.G., Haryana.

Mr. P.K. Longia, Advocate,
for respondents No. 2 to 6.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioner is that after the retirement of the petitioner, the retiral benefits were not paid within the specified period due to which, the petitioner has become entitled for the grant of interest on the delayed release of the pensionary benefits and the further prayer of the petitioner is that the amount of the Group Insurance Scheme, which amount was being deducted from the salary of the petitioner regularly, has not been released by the respondent so far.

As per the averments made in the petition, the petitioner joined Haryana State Electricity Board on 01.08.1975 and thereafter, the petitioner was allocated Uttar Haryana Bijli Vitran Nigam after the bifurcation of the

Haryana State Electricity Board and ultimately, the petitioner retired on attaining the age of superannuation on 31.03.2010 while working on the post of Upper Division Clerk.

The petitioner claims that after the retirement, his pensionary benefits were not released immediately and the provident fund amount was released to the petitioner on 27.01.2011, the gratuity and the amount of the commutation of pension was released to the petitioner on 20.11.2011 hence the petitioner is entitled for grant of interest on the delayed release of the amount of the GPF, gratuity as well as the commutation of pension. The petitioner further claims that the amount of Group Insurance Scheme (GIS) for which the petitioner has continuously contributed during his career, but is yet to be released by respondent No.6.

After notice of motion, the respondents have filed the reply. The respondents have not denied the dates on which the retiral benefits were released to the petitioner but the only argument is that the pension papers were not complete and the Chief Auditor of the Uttar Haryana Bijli Vitran Nigam had returned the pension papers with certain observations and therefore the delay had occurred. As far as the claim for GIS, the plea of the petitioner that during the service career the contribution was withdrawn from his salary is admitted but the only objection raised is that prior to the retirement of the petitioner, the said scheme was closed i.e. in the year 2007.

I have heard learned counsel for the parties and have gone through the records which is available on file.

Keeping in view the judgment of the Full Bench of this Court in

***A.S. Randhawa Vs. State of Punjab and others*,** 1997(3) SCT 468, an employee is entitled for the release of the pensionary benefits within a period of two months of retirement in case, there is no impediment, failing which the employee is entitled for the grant of interest. 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, the petitioner retired from service on attaining the age of superannuation on 31.03.2010, no impediment which gives jurisdiction to the respondents to withhold the pensionary benefits has been brought to the notice of this Court. No such impediment has been mentioned in the reply also.

That being so, the petitioner become entitled for the grant of interest on the pensionary benefits as concededly, the retiral benefits have been released after a period of two months of the retirement of the petitioner and in the facts and circumstances the delay is attributed to the respondent departments only.

As far as the objection of the respondents that the pension papers were not complete and there were observations of the Chief Auditor, the said relates to the department only. Nothing has come on record that the petitioner was required to complete any formality, rather it was the department who was to remove the objections in case the same were raised by the Chief Auditor. The said argument cannot absolve the respondents of their liability to pay the interest to the petitioner.

Further, a co-ordinate Bench of this court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has 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."*

In the present case, the respondents had retained the amount for which the petitioner became entitled for in respect of his gratuity, provident fund and commutation of pension and used the same to their benefit hence, the petitioner becomes entitled for the grant of interest on the delayed payments of gratuity, provident fund as well as the commutation of pension.

As per the claim of the petitioner for release of the GIS amount, once, it is a conceded fact that the deductions were made from the pay of the petitioner while the petitioner was in service, the petitioner is entitled for the release of the said benefit. The respondent No.6, even after the retirement of the petitioner had been asking the department to send the details of the persons, who are to be released the benefit keeping in view the deductions being made from their salary. Annexure R-6/A attached by the respondent No.6 makes it clear that the details were sought by the Life Insurance Corporation upto 31.12.2014 of the employees, who were entitled for the release of the GIS and whose claims were pending. Concededly, the claim of the petitioner was pending with the respondents for the release of the GIS amount hence, the said claim cannot be denied by the respondents on any ground much less that the scheme had closed in the year 2007. Hence, the respondent No.6 is directed to release the GIS amount for which the petitioner has become entitled for keeping in view the deductions which have been made from his salary.

The petitioner is held entitled for interest @ 6% per annum on the amounts which were released after a delay i.e. gratuity, provident fund and commutation as well as the GIS amount, from the date the amount become due till the same was/is actually released.

Let, the calculation of the interest as well as the GIS amount due to the petitioner be released to him within a period of two months from the receipt of the copy of this order.

No other arguments were raised.

The petition is allowed in the above term.

August 30, 2022 **(HARSIMRAN SINGH SETHI)**
dinesh **JUDGE**

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