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

**(211)** **CWP-14400-2016**
**Date of Decision : March 21, 2022**

**Rajender Singh** **.. Petitioner**

**Versus**

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

**(Through Video Conferencing)**

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

Present: Mr. Sandeep Singal, Advocate, for the petitioner.

Mr. Raman Kumar Sharma, Additional Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

Present petition has been filed with a prayer that the daily wage service which the petitioner had rendered, be treated as qualifying service for computing the pensionary benefits after the petitioner retired from service on 30.11.2014 on attaining the age of superannuation.

After notice of motion, the respondents have filed the reply. In the reply, it has been mentioned that the petitioner has been found entitled for counting 6 years and 27 days as a qualifying service out of the total period claimed and following order was passed by the Coordinate Bench of this Court on 16.01.2020:-

> "*As per the reply, the total service period of the petitioner from 1.2.1986 to 31.1.1996 being 6 years 27 days was treated as qualifying service of the petitioner after deduction of the unqualified period which is 3 years 11 months 11 days.*
>
> *Learned counsel for the petitioner states that he does not wish to press for counting period i.e. 3 years 11 months 11 days towards his qualifying service but the respondents are required to re-fix his pension after taking into account the admitted qualifying service of 6 years 27 days, which has not been done.*
>
> *Accordingly, learned State counsel prays for time to seek instructions and file an affidavit qua counting the qualifying service of 6 years 27 days towards pension and as to whether the same has been done or not and if it is done, the detail of the calculation be placed on record.*
>
> *Adjourned to 26.3.2020.*"

Keeping in view the order dated 16.01.2020, an affidavit has been filed by the respondents stating that the relief has already been extended to the petitioner and 6 years and 27 days have already been added to the qualifying service and a sum of Rs.3,83,637/- has already been paid to the petitioner.

Learned counsel for the petitioner has not been able to dispute the same.

Keeping in view the above, the grievance as raised in the present petition has already been redressed and therefore, no further orders are required to be passed.

At this stage, learned counsel for the petitioner submits that though the relief might have been granted now but as, the petitioner retired in the year 2014 and the benefit was extended to the petitioner in March, 2016, the petitioner is entitled for the grant of interest on the said amount as un-disputedly, the petitioner was entitled for the relief at the time of his retirement whereas, the amount has been paid after two years of retirement.

Learned counsel for the respondents does not dispute the fact that the petitioner was found entitled for calculating his daily wage service as a qualifying service for computing the pensionary benefits and the benefits were released to him in the year 2016.

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

Keeping in view the fact that the petitioner retired from service on 30.11.2014 whereas the benefits for which the petitioner was found entitled for at the time of retirement, were released in the year 2016, there is an inordinate delay attributable upon the respondents-Department.

As per the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*****,** the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment. 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."*

Concededly, in the present case, the delay is inordinate delay in the release of certain benefits, which were released at a later stage in the year 2016. As the petitioner is not responsible for the said delay and the same is attributable to the respondents, the petitioner is entitled for the grant of interest.

Further, a Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

*"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."*

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the retiral benefits from

01.01.2015 onwards till the date payments were released. Let the computation of interest be done by the respondents within a period of two months from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of one month thereafter.

The writ petition is allowed in above terms.

**March 21, 2022** **(HARSIMRAN SINGH SETHI)**
*harsha* **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes