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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-10120-2018
Date of Decision: 21.03.2022

Gurmail Singh

..... Petitioner

Versus

Punjab State Civil Supplies Corporation Limited and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.P. Rana, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab,
for respondent No.1.

Mr. Harpreet Singh Gharuan, Advocate,
for respondent No.2.

(Through Video Conference)

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HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for the grant of interest on the delayed release of the pensionary benefits to the petitioner.

Learned counsel for the petitioner argues that the petitioner retired on attaining the age of superannuation on 31.01.2017 but, his pensionary benefits were not released within a period of two months from the retirement and there is an inordinate delay in release of the pensionary benefits, and therefore, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits, keeping in view the judgment of the Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, wherein it has been stated that an employee who has not been released the pensionary benefits within a period of two months from retirement, he becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits, in case there was no impediment for the release of the same.

Learned State counsel submits that there was an FIR registered against the petitioner being FIR No.19 dated 24.02.2010 and at the time of the retirement, the petitioner was already acquitted in the said FIR but Revision petition was pending against the acquittal of the petitioner, hence, keeping in view the said proceedings, the pensionary benefits of the petitioner were withheld, hence no grievance can be made by the petitioner in this regard. Learned State counsel further submits that there is an order passed by a Division Bench of this Court in **LPA No.315 of 2021**, staying the grant of interest to the employees whose pensionary benefits were withheld by the respondent-Corporation, therefore, the petitioner is not entitled for the grant of interest on the said delayed release of payments.

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

As per the settled principle of law as laid down by the Full Bench of this Court while passing judgment in **A.S. Randhawa's case** (supra) that 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.

As per **A.S. Randhawa's case** (supra), unless and until there is an impediment in release of the pensionary benefits, the same are to be released within a period of two months of the retirement. In the present case, before the petitioner retired from service on 31.01.2017, he had already been acquitted by the Competent Court of law in respect of FIR No.19 dated 24.02.2010. The Magistrate acquitted the petitioner on 06.06.2017 that being so, it cannot be said that any proceedings were pending against the petitioner so as to give the jurisdiction to the respondents to withhold the pensionary benefits of the petitioner. Further, even the appeal against the acquittal was dismissed and the pendency of the revision petition cannot be treated as an impediment for retaining the pensionary benefits therefore, the said ground being pressed by the respondent to justify their actions is without any application of mind and cannot be accepted as a reason for withholding the pensionary benefits of the petitioner and the same is accordingly rejected.

With regard to the second argument that no interest is to be paid keeping in view the order passed by the Division Bench of this Court in **LPA No.315 of 2021**, the respondents are confusing the issue. The factual aspect in the present case is different than the case which is pending before the Division Bench in the said L.P.A. The matter pending before the Division Bench in LPA No.315 of 2021 relating to the case where initiation of disciplinary proceedings against the retired employees, were found beyond jurisdiction of the department concerned and the release of the pensionary benefits was allowed along with the interest. It is under those circumstances, the interest part has been stayed by way of interim order. The said interim order passed in LPA No.315 of 2021 is not applicable in the facts and circumstances of the present case, hence, the interim order passed by the LPA Bench cannot be made applicable in the case of the petitioner to deny him the grant of interest.

Further, a co-ordinate Bench while passing order in **CWP-15867-2001** titled as ***"J.S. Cheema Vs. State of Haryana and others"***, decided on 20.11.2013, held that even where an amount has been retained by a Department, which actually belonged to the employee, and has used the same to its benefit, and the employee has suffered prejudice due to the non-release of the said amount, the employee becomes entitled for the grant of interest, so as to compensate him for the said prejudice. The relevant paragraph No.5 of the judgment is 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.*
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> *x -- x -- x"*

Keeping in view the above, the prayer of the petitioner for the grant of interest is allowed, the petitioner is held entitled for interest at the rate of 6% per annum on the delayed payments of the retiral benefits from the date it was to be released till the actual payments were released to him.

Let the calculation of the interest under this order be done within a period of two months and the amount so calculated be released to the petitioner within a period of four weeks thereafter.

Allowed.

21.03.2022 **(HARSIMRAN SINGH SETHI)**
Bhumika **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No