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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-15685-2016
Date of Decision: 08.03.2022

Darshan Singh

..... Petitioner

Versus

The Managing Director, Punjab State Civil Supplies Corporation Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dhanpat Rai Singh, Advocate, for
Mr. Inderjit Sharma, Advocate,
for the petitioner.

Mr. Naresh Gopal Sharma, Advocate, and
Mr. Vipan Kumar, Advocate, for
Mr. Meherdeep Singh, Advocate,
for the respondent.

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HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for quashing of the impugned order dated 20.03.2014, passed by the respondent (Annexure P-7), vide which the petitioner has been declined the interest on the delayed release of his pensionary benefits.

As per the facts mentioned in the present petition, the petitioner was working as a District Manager in PUNSUP and he got retired on 30.09.2007 on attaining the age of superannuation. At the time of his superannuation, two charge-sheets, dated 30.10.2003 and 27.01.2005, were pending against him and according to charge-sheet dated 27.01.2005, he did not perform his duties as required, which had resulted into loss of Rs.19,80,74,585/-. As the said charge-sheets were pending against the petitioner, his retiral benefits were withheld by the respondent, so as to ensure that in case he is found liable for the said loss, recovery of the same could be made from those retiral benefits. The proceedings with regard to charge-sheet, dated 27.01.2005, came to an end on 14.01.2008, and those with regard to charge-sheet issued on 30.10.2003 also attained finality on 29.09.2011, and the petitioner was found innocent in respect of the allegations alleged in both the charge-sheets.

Learned counsel for the petitioner argues that keeping in view the facts that his pensionary benefits were withheld in view of the charge-sheets issued by the respondent itself and then the respondent failed to establish those charges against the petitioner, and petitioner suffered prejudice in view of the delay in releasing the pensionary benefits to him, as the same were actually released in the year 2012, the petitioner is entitled for the grant of interest on the delayed payments.

Learned counsel for the respondent on the other hand submits that keeping in view the fact that two charge-sheets were pending against the petitioner on the date when he superannuated, i.e. 30.09.2007, it was within the jurisdiction of the respondent to withhold his pensionary benefits. Learned counsel further submits that as and when the petitioner was found innocent and all the proceedings pending against him came to end, the retiral benefits due to him were released in the year 2012, and therefore, keeping in view the facts and circumstances of this case, the petitioner is not entitled for the grant of any interest and the order passed by the competent authority, dated 20.03.2014, declining the same, is perfectly valid and legal.

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

It is a matter of fact that the retiral benefits of the petitioner were withheld by the respondent, after the petitioner superannuated on 30.09.2007, due to pendency of the two charge-sheets against him. It is a conceded position that the allegations alleged in the said charge-sheets could not be proved against the petitioner and he was found innocent, and therefore, those charge-sheets were dropped by the respondent itself.

Once the Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled upon his superannuation was withheld, and the Department failed to substantiate those allegations, therefore, the issuance of the charge-sheets or pendency of the same cannot cause prejudice to the petitioner. The acts which are attributable to the respondent cannot cause prejudice to an employee as firstly by withholding the pensionary benefits on the basis of pendency of the charge-sheets issued by the Department alleging certain allegations and thereafter, by denying the grant of interest on the delayed payments, despite the fact that the employee was found innocent as the Department concerned failed to prove those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his pensionary benefits upon his retirement for a sufficient long period of time and petitioner could not use those financial benefits to his benefit, the petitioner becomes entitled for the grant of interest on the delayed payments to mitigate the prejudice/hardship suffered by him, which is in consonance of settled principle of law.

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 Government 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"*

In the present case also, the amount which was retained by the respondent-Department under the pretext of pendency of the disciplinary proceedings against the petitioner has been used by the Department to its benefit and hence, the case of the petitioner for grant of interest on the delayed payments is covered by the above said ratio given by the learned co-ordinate Bench of this case.

In view of the above, the present petition is allowed and the impugned order dated 20.03.2014 (Annexure P-7) is set aside with a direction to the respondent to grant petitioner the interest at the rate of 9% per annum on the retiral benefits from the date when he retired upto the date when his retiral benefits were actually 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 two weeks thereafter.

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

1. Whether speaking/reasoned : Yes

2. Whether reportable : Yes