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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-12699-2017
Date of Decision: 02.06.2022

Joginder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

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<u>HARSIMRAN SINGH SETHI J.</u> (ORAL)

Learned counsel for the petitioner submits that though the present petition has been filed for quashing of the charge-sheet dated 15.03.2017 (Annexure P-11), but the said prayer of the petitioner has been rendered infructuous as the said charge-sheet dated 15.03.2017 has already been dropped by the respondents vide order dated 27.05.2019. Learned counsel further submits that now the only surviving prayer of the petitioner is for the grant of interest on the delayed release of pensionary benefits to him by the respondents.

Learned counsel for the petitioner argues that the petitioner had retired from the services of the respondent-Department on 31.10.2012, but the pensionary benefits of the petitioner, for which he was entitled for, were not released in his favour by the respondents and that too without any valid justification.

Learned counsel for the petitioner submits that after retirement of the petitioner, a charge-sheet was issued against him by the respondent-Department on 15.03.2017, which was made a ground to justify the action of withholding of the pensionary benefits of the petitioner by the respondents, which action is not permissible keeping in view the settled principle of law. Learned counsel further submits that the pensionary benefits of the petitioner were released to him starting from the year 2015 till 2021, hence the petitioner is entitled for the grant of interest on the said delayed release of pensionary benefits to him by the respondents.

Learned State counsel submits that the petitioner was charge-sheeted on 15.03.2017 with regard to the allegations of embezzlement of wheat, due to which fact, the pensionary benefits of the petitioner were withheld by the respondents, which is within the jurisdiction of the respondents, hence claim of the petitioner for the grant of interest on the said delayed release of pensionary benefits to him may kindly be declined.

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

It is a conceded position that the petitioner retired from the services of the respondent-Department on 31.10.2012, on which date, there was no charge-sheet pending against him. Thereafter, the petitioner got an extension for a period of two years in the service, i.e. up to October, 2014, during which period also, there were no proceedings pending against him, so as to give jurisdiction to the respondents to withhold his pensionary benefits.

Rather, a charge-sheet was issued against the petitioner by the respondents on 15.03.2017, i.e. approximately after a period of two and a half years from the date of his retirement. The said charge-sheet could not have been made a ground for withholding the pensionary benefits of the petitioner by the respondents keeping in view the settled principle of law laid down by the Full Bench of this Court while passing judgment in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, according to which, an employee who has not been released the pensionary benefits within a period of two months from superannuation, in case there is no impediment, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits, hence in the present case, the relevant date to ascertain whether there was any impediment in releasing the pensionary benefits of the petitioner or not was 31.10.2014, on which date concededly, there were no proceedings pending against the petitioner, so as to give jurisdiction to the respondents to withhold his pensionary benefits. The relevant paragraph of the judgment in **A.S. Randhawa's case** (supra) is as under:-

> *" - x - x -*
>
> *8. 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 from 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. ...*
>
> *- x - x -"*

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*
>
> *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.*
>
> *x -- x -- x"*

Even otherwise, the charge-sheet dated 15.03.2017, which was issued against the petitioner, has already been dropped by the respondents, even on the said ground, the pensionary benefits of the petitioner could not have been withheld by the respondents.

The case of the petitioner for the grant of interest on the delayed release of pensionary benefits to him by the respondents is squarely covered by the above said judgments passed in **A.S. Randhawa's case** (supra) and **J.S. Cheema's case** (supra) as the said pensionary benefits of the petitioner were released to him by the respondents after an inordinate delay, which delay is attributable upon the respondents only, hence the petitioner has made out a case for the grant of interest on the said delayed release of pensionary benefits to him by the respondents.

Keeping in view the above, the present petition is allowed and the petitioner is held entitled for the grant of interest on the delayed release of pensionary benefits to him by the respondents at the rate of 6% per annum from the date the said amount became due till the date of actual payment of the same to the petitioner.

Let the computation of interest, for which the petitioner becomes entitled for under this order, be carried out within a period of two months from the date of receipt of the copy of this order and the interest so calculated be paid to him within a period of next four weeks.

02.06.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

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