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

**CWP No.16920 of 2016 (O & M)
Date of Decision:-22.03.2022**

Resham Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present:- Mr. Munish Behl, Advocate
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI J.(Oral)

CM-10819-CWP-2017

This is an application for placing on record the amended writ petition.

Application is allowed and the amended writ petition is taken on record.

CWP-16920-2016

The present petition has been filed for issuance of directions to the respondents to release all the pensionary benefits to the petitioner for which he became entitled after retirement on attaining the age of superannuation on 31.7.2012, alongwith interest. Further prayer of the petitioner is that the salary of the petitioner w.e.f. 2002 till the date of his retirement was also not being released by the respondents without any valid justification and therefore the respondents be directed to release the said salary of the petitioner alongwith interest.

As per the averments in the present petition, the petitioner was appointed as Inspector in the Excise and Taxation Department on 13.12.1989 and was posted in Gurdaspur. Thereafter, the petitioner was promoted as Excise and Taxation Officer vide order dated 17.1.2007. Thereafter, the petitioner was retired on attaining the age of superannuation on 31.7.2012. After the retirement, the petitioner was not released his pensionary benefits for the reason that the petitioner remained posted at various stations and the information of his tenure at a particular station could not be verified as the service book of the petitioner was found missing and for the said purpose itself, even salary of the petitioner from the year 2002 onward was not being released to him. The prayer of the petitioner is that the petitioner is suffering prejudice as the benefit for which the petitioner is entitled for in respect of the service, which he had rendered and the retiral benefits for which he became entitled for after his retirement, are being withheld by the respondents and that to without any valid justification.

Upon notice of motion, the respondents have appeared and filed the reply. In the affidavit, which the respondents have filed before this Court dated 23.4.2019, the details of the amount released to the petitioner have been given alongwith dates. As per the said affidavit, all the benefits for which the petitioner was found entitled for including the salary have already been released to him. As per the respondents, the sanction was already accorded by the competent authority for the release of the arrears to the petitioner, the details of which have been given in the order dated 20.3.2017 (Annexure R-6), stated to have been cleared for payment on 17.3.2017. With regard to the pensionary benefits, the following chart has been given by the respondents to show that the pensionary benefits have also been released in favour of the petitioner :-

Sr. No.	***Particulars***	***Amount (in Rs.)***	***Date***
1	GPF	79,763/-	27.11.2014
2	GIS	22,860/-	.11/05/2017
3	Leave Encashment	3,64,980/-	.12.05.2017
4	DCRG	4,10,603/-	.17.05.2017
5	GPF	79,763/-	.27.11.2017
6	Revised Leave Encashment	18,750/-	.29.11.2017
7	Revised DCRG	21,093/-	.29.11.2017
	TOTAL	10,12,492/-	

As per respondents, even the arrears of pension have also been released to the petitioner and details of the payment alongwith the dates have been mentioned therein, which is also reproduced as under :-

Sr. No.	***Pension for the period from***	***Amount (in Rs.)***	***Date of payment***
1	01.08.2012 to 30.09.2018	12,88,243/-	30.01.2019
2	October, 2018	24,958/-	.05.12.2018
3	November, 2018	24,958/-	.05.12.2018
4	December, 2018	24,958/-	.31.12.2018
5	January, 2019	24,958/-	.30.01.2019
6	January, 2019	25,393/-	.27.02.2019

Learned counsel for the respondents submits that as all the benefits, for which the petitioner was found entitled for, have already been released, the present petition be rendered infructuous and may kindly be disposed of.

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

Concededly, the payments for which the petitioner was entitled for have already been released. Now the question is whether the petitioner is entitled for interest or not on the delay of releasing the benefits. From the stand taken by the respondents, the delay occurred due to non-availability of service book of the petitioner, due to which certain facts could not be verified as the petitioner remained posted at various stations, due to which, even the salary of the petitioner could not be released. As per the respondents, as the salary of the petitioner could not be released, the last pay drawn could not be ascertained so as to compute the pensionary benefits admissible to the petitioner. The said reason being extended by the respondents cannot come in way of petitioner to claim interest. The maintenance of service book of an employee is the job of the employer. It was the duty of the respondents to maintain the service book and update the same regularly, especially when as per the rules governing the service, the pension papers of an employee have to be completed prior to the date of retirement. In the present case, not only the pensionary benefits, even the salary was not released to the petitioner for a period of ten years upto the date of retirement and even the said salary was released to the petitioner in the year 2017. This clearly shows that the delay is attributable to the respondents and petitioner cannot be held liable for the same.

Once the petitioner is not liable for the delay in release of the salary or the pensionary benefits, keeping in view the judgment of Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, according to which the pensionary benefits are to be released to an employee within a period of two months from the date of his retirement in case there is no impediment, failing which, the employee is entitled for interest The said judgment squarely covers the case of the petitioner in his favour for the grant of interest. The relevant portion of the 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.*

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."*

Keeping in view the above, the delay being attributed to the respondents, the petitioner's case is squarely covered by the law cited hereinbefore so as to grant interest in favour of the petitioner. The petitioner is held entitled for the grant of interest @ 6% per annum on the payments, which have been released to the petitioner after his retirement including the pensionary benefits as well as the arrears of salary. In respect of arrears of salary, the interest is to be computed from the date the salary became due till the payment of the same. Similarly, in the case of pensionary benefits, the interest is to be calculated from the date the pensionary benefits became due upto the date they are actually paid. Let the computation of interest under this order be done within a period of two months and the amount so computed, be released to the petitioner within a period of next four weeks.

March 22, 2022 **(HARSIMRAN SINGH SETHI)**
Vijay Asija **JUDGE**

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