215 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

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**CWP-22597-2017**
**Date of Decision: 08.04.2022**

Om Parkash Hooda

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..... Respondents

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

Present: Mr. Mohnish Sharma, Advocate, for the petitioner.

Mr. V.K. Kaushal, Advocate, for the respondents.

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

In the present petition, prayer of the petitioner is for setting aside the order dated 24.04.2017 (Annexure P-11), vide which a sum of Rs.4,00,073/- has been withheld by the respondents from the gratuity amount payable to the petitioner, after his retirement on 31.12.2013.

Learned counsel for the petitioner argues that the petitioner retired on 31.12.2013, while working as an Assistant Executive Engineer (Provisional) with the respondent-Department. After his retirement, though certain pensionary benefits were released to him, but the complete gratuity amount admissible to the petitioner was not released to him on the ground that the recovery of Rs.7,40,000/- was to be effected from the petitioner, which amount was deducted from the gratuity amount admissible to him after his retirement. Learned counsel for the petitioner submits that the said recovery was illegal as the petitioner was not found responsible for any loss or guilty of any misconduct by the respondents while the petitioner was in service, but the amount has been recovered in an arbitrary manner after his retirement.

Learned counsel for the petitioner further submits that keeping in view the representation filed by the petitioner with the respondents with regard to the aforesaid recovery, the respondents, upon reconsideration, released an amount of Rs.2,90,000/- to him on 24.04.2017. On persistence of the petitioner, another sum of Rs.50,000/- was released to him by the respondents on 03.05.2017. Thereafter, as the remaining amount was not being released to the petitioner by the respondents, he approached this Court, challenging the action of the respondents in retaining an amount of Rs.4,00,073/- from his pensionary benefits and prayed that the respondents be directed to release the said amount along with the interest in his favour.

After notice of motion, during pendency of the present petition, the respondents released another sum of Rs.3,31,800/- to the petitioner on 16.10.2018, out of the remaining amount of Rs.4,00,073/-.

The respondents in their reply have submitted that there was an allegation alleged against the petitioner that he had caused loss to the respondent-Department to the tune of Rs.7,40,000/- while in service and the said amount was being recovered from him after his retirement, though it is a conceded position that the proceedings initiated in respect of the said allegations had already attained finality while the petitioner was in service, wherein the petitioner was issued censure only.

Learned counsel for the petitioner submits that now all the amount for which the petitioner is entitled for, has been released to him and no further amount on account of the gratuity is admissible to the petitioner. But as the amount, for which the petitioner was entitled for upon his retirement, has now been released in his favour by the respondents, as the same was retained by the respondents for more than two months after retirement of the petitioner, therefore, he is entitled for the grant of interest on the said delayed payments.

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

From the facts which have been narrated hereinbefore, it is clear that withholding of the sum of Rs.7,40,000/- initially by the respondents was without any valid justification. It is also a conceded fact that after retirement of the petitioner as well as during the pendency of the present petition, a sum of Rs.6,71,727/- has already been released to the petitioner and a sum of Rs.68,273/- has been retained by the respondents keeping in view the punishment imposed upon the petitioner while in service.

It is a 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*** that 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. The relevant paragraph of the said judgment 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"*

The case of the petitioner for the grant of interest 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 amount, which was initially withheld from the gratuity amount admissible to the petitioner upon his retirement, was retained by the respondents without any valid justification. Release of the amount by the respondents themselves show that withholding of the said amount was not correct. That being so, the petitioner needs to be compensated for the period he has not been able to use the said amount.

Keeping in view the above, the present petition is allowed and the petitioner is held entitled for the grant of interest at the rate of 6% per annum from the date the amount, which was withheld and later on released by the respondents, 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.

**08.04.2022** **(HARSIMRAN SINGH SETHI)**
*Apurva* **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes