

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP-27474-2015

Date of Decision : July 06, 2022

G.C. Bansal

.. Petitioner

Versus

UHBVN and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raman B. Garg, Advocate and
Ms. Gitanjali Chhabra, Advocate, for the petitioner.

Mr. Arihant Goyal, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner has not been paid the interest on the pension amount, which was paid to him much after the retirement.

As per the facts mentioned in the petition, the petitioner attained the age of superannuation while working as Assistant Engineer on 31.07.2004. After the retirement of the petitioner, the respondents assessed the pension of the petitioner and issued pension payment order according to which, the pension of the petitioner was calculated as Rs.11,145/- per month. The respondents-State issued Haryana Civil Services (Revised Pension) Part-I, Rules 2009, which came into being w.e.f. 01.01.2006 and according to the said, the pension was to be revised of the pensioners. While

giving effect to the said 2009 Rules, the pension of the petitioner was fixed @ Rs.16,792/- per month w.e.f. 01.01.2006, which according to the petitioner, was not fixed as per his entitlement.

The petitioner represented to the respondents for the grant of pension according to his entitlement, which grievance was ultimately accepted by the respondents and the petitioner was given pension @ Rs.23,0,50/- per month w.e.f. 01.01.2006 and the arrears were also paid to the petitioner. The grievance of the petitioner is that as the respondents fixed the correct pension only in the year 2015, though the same was required to be fixed in the year 2009 but w.e.f. 01.01.2006 itself when the rules had come in operation, the petitioner is entitled for the grant of interest on the arrears of pension which have been given to him in the year 2015 after correcting the mistake. As the prayer of the petitioner for the grant of interest was not being accepted, the petitioner has approached this Court.

After notice of motion, the respondents have filed the reply wherein, the contentions which have been noticed hereinbefore, have been conceded.

Learned counsel for the respondents submits that as the mistake was corrected and the petitioner did not raise the said grievance for a period of six years, no interest is liable to be paid by the department.

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

It is a conceded position that in case, the pension of the petitioner was correctly assessed in the year 2009, the petitioner would have been paid the pension of Rs.23,0,50/- per month w.e.f. 01.01.2006. The

delay in release of correct pension to the petitioner is only due to inaction on the part of the respondents who wrongly revised the pension of the petitioner to Rs.16,792/- instead of Rs.23,0,50/- to be paid w.e.f. 01.01.2006. The mistake is attributable to the respondents only. Merely because the petitioner did not raise a grievance cannot be a ground to deny the petitioner the benefit of interest for the reason that due to the fault of the respondents, the petitioner could not get his entitled pension for a period of approximately six years and the amount of arrears, which was ultimately paid to the petitioner in the year 2015, were retained by the respondents to their benefits for about six years.

A Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

“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 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, once a Coordinate Bench has held that where an amount belonging to an employee has been retained and used by the department, employee becomes entitled for interest. In the present case also, the amount which was ultimately released to the petitioner by way of arrears in the year 2015 should have included interest on the same as well and hence, the petitioner has become entitled for the grant of interest.

The petitioner is held entitled for the grant of interest starting from 01.07.2009 onwards till the actual payment of the arrears of the pension @ 6% per annum. Let the amount for which the petitioner becomes entitled under this order be calculated within a period of two months from the receipt of copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

July 06, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes