IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(228)

CWP No.21347 of 2018
Date of Decision : 10.10.2022

R.K. Singla ....**Petitioner**

Versus

State of Haryana and others .....**Respondents**

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. S.K. Malik Advocate
for the petitioner.

Mr. Ravinder Singh Budhwar, Additional Advocate General, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance of the petitioner is that the petitioner retired from service on attaining the age of superannuation on 31.12.2016 but his pensionary benefits were withheld by the respondents on the ground that there was a proposal to issue him a charge sheet after his retirement, which chargesheet was never issued to the petitioner but, the actual benefits were released to him only starting from February, 2017 onwards. Hence, the petitioner is entitled for grant of interest on the delayed release of the pensionary benefits keeping in view the settled principles of law.

After notice of motion, the respondents have filed reply wherein the respondents have stated that prior to the retirement of the petitioner on 31.12.2016, an explanation was sought on certain issue so as to decide whether the petitioner should be charge-sheeted or not but ultimately, as the petitioner was not charge-sheeted, his retiral benefits were released and the date of release of the pensionary benefits has been depicted in para 3 of the reply.

Learned counsel for the respondents submits that as there was a proposal to issue chargesheet, the department was well within its jurisdiction to withhold the pensionary benefits of the petitioner.

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

It is a settled principle of law that only during the pendency of the disciplinary proceedings or the criminal proceedings, the department has jurisdiction to withhold certain pensionary benefits and not otherwise. Further, the departmental proceedings only be termed to be pending in case a chargesheet has been issued against the employee prior to the retirement. In the present case, not only before the retirement, no departmental proceedings were initiated but even after the retirement, no chargesheet was served upon the petitioner, which means there was no impediment in the release of the pensionary benefits of the petitioner at the time of his retirement so as to give the jurisdiction to the respondents to withhold the pensionary benefits.

As per the judgment of the Full Bench in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, the pensionary benefits of an employee needs to be released within a period of two months of the retirement in case there is no impediment, failing which the employee will be entitled for the grant of interest. Relevant para 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."

Keeping in view the said proposition of law, as there was no impediment in the case of the petitioner, the pensionary benefits should have been released to him before 01.03.2017. Keeping in view the reply, the benefits have been released to the petitioner starting from 22.02.2017 onwards and have been released on various dates. Hence, the pensionary benefits, which have been released to the petitioner after 01.03.2017 will carry interest @ 6% per annum from the date the amount became due till the date of actual release of the same to the petitioner.

Keeping in view the above, the respondents are directed to calculate the amount as interest for which the petitioner becomes entitled under the present order and release the same within a period of eight weeks from the date of receipt of a copy of this order.

Petition stands allowed.

October 10, 2022 **(HARSIMRAN SINGH SETHI)**
jt **JUDGE**

Whether reasoned/speaking? Yes
Whether reportable? No