IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(221) **CWP-21548-2018**
Date of Decision : March 09, 2022

Bal Singh Sharma **.. Petitioner**

Versus

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

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Chahal, Advocate, for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for the grant of interest on the delayed release of the pensionary benefits.

Learned counsel for the petitioner argues that the petitioner was appointed as a JE on 03.02.1982 and by his sheer dint of hard-work, he attained promotion upto the rank of Executive Engineer and ultimately retired on attaining the age of superannuation on 31.05.2016. Learned counsel for the petitioner submits that a charge sheet was issued against the petitioner on 05.03.2014 wherein, certain allegation were made against the petitioner and by the time, the petitioner attained the age of superannuation and retired, the said charge sheet was pending, the respondents authorities

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withheld certain pensionary benefits of the petitioner. Learned counsel for the petitioner further submits that ultimately after enquiring into the said charge sheet, an order was passed on 24.10.2017 (Annexure P-3) dropping the said charges, which were alleged against the petitioner. Learned counsel for the petitioner further submits that as certain pensionary benefits of the petitioner were withheld by the respondents due to the pendency of the charge sheet, which allegations alleged by the respondents-Department, could not be proved by the said Department, makes the petitioner entitled for the grant of interest on the delayed payments of pensionary benefits, which were ultimately released to the petitioner in April, 2018 i.e after expiry of approximately two years.

Learned State counsel submits that as concededly a charge sheet was pending against the petitioner on the date of his retirement, withholding of certain pensionary benefits of the petitioner was within the jurisdiction of the Department and the moment the charge sheet was dropped, within no time, the pensionary benefits of the petitioner, which were withheld, were released, hence, the claim of the petitioner for the grant of interest on the delayed payment is not maintainable, keeping in view the facts and circumstances of this case.

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

It is a matter of fact that the allegations were alleged against the petitioner by the Department while issuing a charge sheet dated 05.03.2014. It is also a conceded fact that respondents took more than two years to decide those allegations and the petitioner had to face the prejudice as on attaining the age of superannuation, only due to the pendency of the charge

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sheet dated 05.03.2014, certain pensionary benefits admissible to the petitioner were retained by the respondents. Ultimately, the said charge sheet was dropped by the respondents vide order dated 24.10.2017 (Annexure P-3). That being so, it is clear that the petitioner was not guilty in any way of any misconduct but, he could not enjoy the fruit of his pensionary benefits immediately upon his retirement and has to wait till April, 2018 for the same.

Once, the respondents failed to prove the allegations, which they had alleged against the petitioner and due to the said allegations, the pensionary benefits of the petitioner were retained, upon being declared innocent, the petitioner becomes entitled to be compensated for the delay as non-release of the pensionary benefits to the petitioner after the petitioner retired on 31.05.2016, surely has caused prejudice to him. The non-grant of interest to the petitioner on the retained pensionary benefits, will amount to putting premium on the action of the respondents, wherein, the allegations were alleged against the petitioner but the same could not be sustained and the pensionary benefits admissible to the petitioner were retained.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*****,** has held that an employee is entitled for the release of his pensionary benefits within a period of two months of his retirement in case there is no impediment. In the present case, the impediment was the charge sheet i.e. the allegations were alleged against the petitioner by the Department, which allegation the Department failed to prove, therefore, the impediment due to which, the pensionary benefits of the petitioner were withheld, cannot be treated as a valid impediment in the facts and circumstances of this case, hence, the petitioner becomes entitled

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for the grant of interest on the delayed release of pensionary benefits. The relevant paragraph of 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*

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rightly belonged to the petitioner was in the custody of the State and was being used by it."

The case of the petitioner is squarely covered by the above said decisions in his favour for the grant of interest on the delayed payment.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 9% per annum on the payment, which have been released after a delay of two months of his retirement. The petitioner will be entitled for interest from 01.08.2016 onwards till the actual payments will be released to him. Let the computation of interest be done by the respondents within a period of two months from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of three weeks thereafter.

The writ petition is allowed in above terms.

March 09, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes

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