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

(221) **CWP-21719-2018**
Date of Decision : May 04, 2022

Jagan Nath **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Khushkaran Kumar, Advocate, for
Ms. Komal Bidhan, Advocate, for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

Ms. Sukhmani Patwalia, Advocate, for respondent No.4.

<u>HARSIMRAN SINGH SETHI J. (ORAL)</u>

Present petition has been filed for the release of the pensionary benefits for which the petitioner is entitled for after he attained the age of superannuation on 31.03.2018.

As per the averments made in the petition, the petitioner is entitled for release of the pensionary benefits within a period two months of the retirement as there was no impediment in release of the same but the pensionary benefits were released to the petitioner starting from March, 2018 onwards till July, 2020.

Learned counsel for the petitioner submits that keeping in view the settled principle of law settled by the Full Bench of this Court in ***A.S.***

***Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*,** the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment, failing which employee is entitled for the grant of interest on the delayed payments.

Learned counsel for the respondents submits that though, there was no impediment but keeping in view the financial status of the Municipal Council, the payments could not be released to the petitioner within time frame fixed by the Full Bench of this Court in ***A.S. Randhawa's case (supra)*** and therefore, the said financial difficulty may kindly be treated as impediment in release of the pensionary benefits and the prayer of the petitioner for the grant of interest may kindly be declined.

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

As per the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*,** the retiral benefits are to be computed and released to an employee within a period of two months from the date of the retirement, in case there is no impediment, failing which employee is entitled for the grant of interest on the delayed payments. 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."*

The ground, which is being taken by the respondents of financial difficulties, is not a good ground keeping in view the judgment of this Court in ***CWP No.14426 of 2003 titled as Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another, decided on 16.08.2005*** wherein, this Court has held that the financial crisis not a valid ground to deny the pensionary benefits to an employee. The relevant paragraph of the said judgment is as under:-

> *"8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and*

housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of ***Chameli Singh v. State of U.P. 1996(2) SCC 549*** *has held as under:-*

"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society. xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being."

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, Ratlam, (1980)4 S.C.C. 163, ***B.L Wadhera v. Union of India, All India Imam Organisation and Ors. v.***

<u>Union of India and Ors.</u>, <u>Kapila Hingorani v. State of Bihar</u>, 2003 (3) R.S.J. 42. *As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:-*

"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created.

We are surprised at the insensitive attitude adopted by the respondent-Corporation in respect of its own employees/pensioners. An employer is not only to look forward to the economic growth but also to look after the welfare of its employees including health, social security and other human needs. It is the obligation of the State or its functionaries to work within the scope of their authority to combat and overcome the miseries of its employees. The Courts in such a situation are obliged to issue necessary directions to mitigate the extreme hardship of the employees involving violation of their human rights by the State or its functionaries like the respondent-Corporation, which are fully controlled by it."

Keeping in view the said, the reason being cited to withhold the pensionary benefits of the petitioner by the respondents is not a valid ground and hence, cannot be treated as impediment so as to overcome the payment of retiral benefits within a period of two months of the retirement as envisaged in ***A.S. Randhawa's case (supra)***.

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."*

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for interest @ 6% per annum on the retiral benefits from the date it became due till the release of the same. 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 one month thereafter.

The writ petition is allowed in above terms.

May 04, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes