241 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-19236-2020
Date of Decision: 30.03.2022

Wassan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.K. Dogra, Advocate,
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

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HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for release of the retiral benefits of the petitioner, which he became entitled for after his retirement on 30.06.2018, after availing an extension for a period of two years.

Learned counsel for the petitioner argues that after retirement of the petitioner, the retiral benefits were not released to him and that too without any valid justification. Learned counsel for the petitioner submits that unless and until any disciplinary proceeding is pending against an employee at the time of retirement, the Department concerned has no jurisdiction to withhold the retiral benefits of the said employee and in the present case, as there were no proceedings pending against the petitioner at the time of his retirement so as to give jurisdiction to the respondents to withhold his retiral benefits, direction be issued to the respondent-Department to release the withheld pensionary benefits forthwith.

After notice of motion, the respondents have filed a reply, wherein it has been mentioned that at the time when the petitioner retired, i.e. on 30.06.2018, there were certain complaints pending against him and on the basis of the said complaints, certain retiral benefits which were admissible to the petitioner, were withheld by the respondents and 75% of the Provisional Pension was extended to him. It is further stated in the reply that nothing was proved against the petitioner in those complaints and the same were dropped by the respondents themselves in July, 2021.

Further, learned State counsel submits that the leave encashment has already been paid to the petitioner on 18.08.2021, therefore, as the retiral benefits, which were admissible to the petitioner, have already been approved by the Department concerned and even by the Office of the Accountant General (A&E), Punjab, the same will also be released to him very soon.

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

It is a settled principle of law as laid down by the Full Bench of this Court in its judgment passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, that the pensionary benefits are to be released within a period of two months from the date of superannuation, in case there is no impediment. By applying ratio of the said judgment, even if there is any impediment and the same is cleared at a later stage then also within a period of two months of clearing of the said impediment, an employee has to be given the all pensionary benefits.

Further as per the judgment of the Full Bench of this Court passed in ***A.S. Randhawa's case*** (supra), an employee who has not been released the pensionary benefits within a period of two months from superannuation becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits.

In the present case, concededly there are no departmental proceedings initiated against the petitioner. The complaints cannot be taken as a disciplinary proceeding so as to give the jurisdiction to the respondent to withhold the retiral benefits of the petitioner. Further the complaints were pending on the date when the petitioner retired in the year 2018, but even after an expiry of more than three years, the pensionary benefits have not been released to the petitioner, though the respondents themselves found those complaints to be baseless and have already dropped those complaints.

Once the respondent-Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled upon his retirement was withheld, and the respondent-Department failed to substantiate those allegations, therefore, the issuance of the complaints or pendency of the same cannot cause prejudice to the petitioner. The acts which are attributable to the respondents cannot cause prejudice to an employee as firstly by withholding the pensionary benefits on the basis of pendency of the complaints issued by the Department alleging certain allegations and thereafter, by denying the grant of interest on the delayed payments, despite the fact that the employee was found innocent as the Department concerned itself dropped those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his retiral benefits upon his retirement for a sufficient long period of time and petitioner could not use those financial benefits to his benefit, the petitioner becomes entitled for the grant of interest on the delayed payments to mitigate the prejudice/hardship suffered by him, which is in consonance with the settled principle of law.

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*
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> *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.*
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> *x -- x -- x"*

Keeping in view the above, once the complaints were dropped in July, 2021 and the pensionary benefits of the petitioner have already been sanctioned in his favour, but still nothing has been mentioned as to why the same have not been released to him so far, therefore, the delay in releasing the said benefits to the petitioner is attributable to the respondents only. Hence, keeping in view the law cited hereinbefore, the petitioner becomes entitled for the grant of interest on the said delayed payments at the rate of 6% per annum from the date the said amount became due till release of the same to the petitioner.

Let the withheld retiral benefits along with the regular pension be released in favour of the petitioner within a period of two months from the date of receipt of the copy of this order along with the interest as granted.

Allowed in the above terms.

30.03.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No