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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-27412-2016
Date of Decision: 08.03.2022

Ramesh Chander

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harish Sharma, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional A.G., Punjab.

Mr. R.S. Randhawa, Advocate,
for respondent No.2.

Mr. Malkeet Singh Balianwali, Advocate,
for respondent No.3.

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

The present petition has been filed for the grant of interest on the delayed payment of the retiral benefits to the petitioner.

Learned counsel for the petitioner argues that the petitioner retired upon attaining the age of superannuation on 31.12.2010 but the retiral benefits for which the petitioner was entitled for were withheld on the ground that there was an FIR No.39, dated 30.08.2015, registered against him, which was pending consideration before the competent Court of law. Learned counsel for the petitioner further submits that the petitioner was acquitted of the said allegation on 12.03.2014, and therefore, from the said date, there was no valid justification of retaining the amount by the respondents and as the respondents took one year to release the retiral benefits of the petitioner, he becomes entitled for the grant of interest on the delayed payment.

Learned counsel for the respondents submits that the petitioner was facing a trial under the Prevention of Corruption Act for demanding Rs.500/- and the proceedings of the said trial were pending on the date when the petitioner attained the age of superannuation and retired, i.e. on 31.12.2010. Learned counsel further submits that after the petitioner was acquitted of the said allegations by the competent Court of law on 12.03.2014, the case for release of the retiral benefits was taken up and those were released expeditiously, and therefore, 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.

Though, it cannot be said that withholding of the retiral benefits by the respondents was unjustifiable at the time when the petitioner superannuated, i.e on 31.12.2010, as the criminal proceedings were pending against the petitioner under the Prevention of Corruption Act but after the said proceedings came to an end on 12.03.2014, there was no valid justification to retain the same after that and the withheld retiral benefits should have been released to the petitioner within a reasonable time by the respondents.

As per the judgment of the Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, 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 all the pensionary benefits. In the present case, impediment of the criminal trial being faced by the petitioner came to an end on 12.03.2014, and therefore, the respondents should have released the retiral benefits to the petitioner by 01.06.2014 but the stance which has been reproduced by the respondents in their reply shows that the retiral benefits were released to the petitioner starting from March, 2015 till March, 2016. The delay in release of the retiral benefits, after the criminal proceedings came to an end, cannot be attributed to the petitioner but are squarely attributed to the respondents themselves.

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 Government Department, which actually belonged to the employee, and has used the same to its benefit, an employee has suffered prejudice due to the non-release of hte 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.*
>
> *x -- x -- x"*

Keeping in view the above, the petitioner is held entitled for the interest at the rate of 9% per annum on the delayed payment of the retiral benefits starting from 01.06.2014 till the date the retiral benefits were actually released to the petitioner.

Let the calculation of the interest under this order be done within a period of two months and the amount so calculated be released to the petitioner within a period of two weeks thereafter.

08.03.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes