

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

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CWP-245-2017

Date of decision : 14.03.2022

INDERJIT SETHI

..... Petitioner

VERSUS

THE PUNJAB STATE POWER CORPORATION LTD AND ORS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. A. K. Walia, Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for respondents No.1 to 3.

Mr. Vanish Singla, Advocate
for respondent No.4.

Harsimran Singh Sethi, J. (Oral)

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

Learned counsel appearing on behalf of petitioner contends that the petitioner who was working as a Junior Engineer with respondents since 1978, was wrongly charge sheeted for being absent from duty and he was removed from service vide order dated 03.08.1998, which order was challenged by filing appropriate appeal in the year 1998. Learned counsel further submits that as the appeal was not being decided by the respondents, the petitioner approached this Court by filing CWP No.19525 of 1996, which was decided by this Court directing the respondents to decide the

appeal expeditiously.

Keeping in view the direction given by this Court, an order was passed by the respondents on 30.03.2011 deciding the appeal vide which, the punishment of removal from service imposed upon the petitioner was modified to that of pre-mature retirement. Though, learned counsel for the petitioner contends that though the said order was passed in March 2011 but the same was also not being given effect to, and the petitioner once again approached this Court by filing CWP No.10733 of 2012 which was disposed of by this Court directing the respondents to consider the claim of the petitioner for the grant of pensionary benefits in terms of the modified order of punishment.

As nothing was being done, the petitioner filed COCP 3152 of 2012 for not implementing the order dated 30.03.2011 by which the petitioner was held entitled for the grant of pension. During the pendency of the said contempt petition, the respondents decided to again modify the punishment imposed vide order dated 30.03.2011 with order dated 01.04.2014 imposing the punishment of compulsory retirement.

Keeping in view the said order, the contempt petition was disposed of and then all the pensionary benefits were released to the petitioner in the year 2016 by treating him as compulsory retired.

The grievance of the petitioner is that the petitioner became entitled for grant of the pension after passing of the order dated 11.03.2011 and therefore, the delay of 5 years in release of the pensionary benefits is attributed upon the respondents and therefore, the petitioner be granted the interest keeping in view the judgment of the Full Bench of this Court in A.

S. Randhawa Vs. State of Punjab in CWP No.2883 of 1997 dated

16.05.1997, according to which the pensionary benefits are to be released to an employee within a period of two months of the retirement in case there is no impediment.

Learned counsel for the respondents on the other hand submits that the reliance being placed by the petitioner on the order dated 11.03.2011 to claim pensionary benefit is factually incorrect as the said order already stood modified by the order dated 01.04.2014 and the pensionary benefits have been allowed only on the basis of the said order therefore, no interest can be granted from a date prior to the date when the petitioner has been retired and therefore, the claim of the petitioner is liable to be rejected.

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

For the grant of pensionary benefits, it has to be ascertained as to under which order, the petitioner has been retired from service and has been extended the concession of pensionary benefits. In the present case, it is a conceded position that the petitioner has been released pensionary benefits keeping in view the order passed by the respondents dated 01.04.2014. That being so, the delay has to be seen from the said date. Nothing has been brought to the notice of this Court whether there was any impediment in release of pensionary benefits immediately after the passing of the order dated 01.04.2014 or not. In the absence of any cogent reason being given for the delay in release of the pensionary benefits after passing of order dated 01.04.2014, keeping in view the settled principle of law settled by the Full Bench of this Court in **A. S. Randhawa's case** (supra), within a period of two months of the passing of the order dated 01.04.2014, the benefits should have been released to the petitioner, which are concededly released to the petitioner only in the year 2016 hence,

the petitioner is entitled for the grant of interest starting from 01.06.2014 onwards till the actual benefits were released to him as the respondents are responsible for the delay.

Even otherwise a co-ordinate Bench of this Court in **CWP No.15867 of 2001 decided on 20.11.2013 titled as J. S. Cheema Vs. State of Haryana** has held that if the pensionary benefits of an employee have been withheld without any valid jurisdiction then the employee becomes entitled for the grant of interest on the retained benefits. The relevant part of the judgment is as under:-

“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 belonged to the petitioner was in the custody of the State and was being used by it.”

In the present case, even according to the respondents, the petitioner became entitled for the grant of pensionary benefits from 01.04.2014. That being so, no justification has come as to why the same was not released to the petitioner rather, it is conceded position that the same were retained till the year 2016 and hence, grant of interest to the petitioner on the delayed release of pensionary benefits is also squarely covered by the said decision.

Keeping in view the above, the petitioner is held entitled for the grant of interest @ 9% per annum from 01.06.2014 onwards till the actual pensionary benefits were released to the petitioner. Let the calculation of

interest for which the petitioner becomes entitled for under this order be done by the respondents within a period of two months and the amount calculated be released to the petitioner within a period of four weeks thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

14.03.2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No