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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of Decision: 12.05.2022

(I) CWP-26150-2016

Jagbir Singh

..... Petitioner

Versus

Government of Haryana and others

..... Respondents

(II) CWP-25425-2017

Dhan Raj Yadav

..... Petitioner

Versus

State of Haryana and others

..... Respondents

(III) CWP-27622-2017

Kamlesh Kumari

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Sidhu, Advocate,
for the petitioner (in CWP-26150-2016).

Mr. Gauravindra Sharma, Advocate,
for the petitioner (in CWP-25425-2017).

Mr. Sudhanshu Makkar, Advocate,
for the petitioner (in CWP-27622-2017).

Mr. Narender Singh Behgal, AAG, Haryana.

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

Vide this common order, three writ petitions, the details of which have been mentioned in the heading, are being disposed of, as the common question of law arises in all of them and for the purpose of passing this order, the facts are being taken from CWP-26150-2016.

The present petition has been filed for release of the pensionary benefits of the petitioner by the respondents, along with interest on the said delayed release of payments to him.

Learned counsel for the petitioner argues that in the present case, after retirement of the petitioner on 30.06.2016, there was no impediment in releasing his pensionary benefits by the respondents and they were under obligation to release the said benefits to him expeditiously, but without any valid justification, the said benefits were withheld by the respondents and the said pensionary benefits were ultimately released to the petitioner, starting from September, 2017 till August, 2018.

Learned counsel for the petitioner submits that as the payments were released to him after a delay of stipulated period of two months by the respondents, as envisaged in the settled principle of law laid down by the Full Bench of this Court while passing judgment in ***"<u>A.S. Randhawa Vs. State of Punjab and others</u>", 1997(3) SCT 468***, the petitioner is entitled for the grant of interest on the said delayed release of pensionary benefits to him by the respondents.

The facts and circumstances of CWP-25425-2017 & CWP-27622-2017 are also similar to those of CWP-26150-2016, except for the facts that in CWP-25425-2017, the petitioner's leave encashment was paid to him on 20.02.2018 and the gratuity amount was released in his favour on 16.04.2018 by the Department concerned, while in CWP-27622-2017, the petitioner retired on 28.02.2014 and the pensionary benefits, for which she became entitled for upon her retirement, were actually released to her starting from August, 2014 till February, 2017, by the Department concerned, the details of which payments have been given in Paragraph No.5 of CWP-27622-2017 in the form of a chart, which facts have not been disputed by learned State counsel.

Upon notice of motion, the respondents have filed the reply, wherein they have submitted that the petitioner had filed a representation claiming a higher pay, which matter was under consideration with the respondent-Department, due to which, the pensionary benefits were not released to him within a period of two months after his retirement.

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

It is a conceded fact that when the petitioners in these petitions retired from service, there was no impediment in releasing their pensionary benefits to them. Further, it is also a conceded fact that the said pensionary benefits were actually released to them after the delay of two months from the date of their retirement, which is clear from the facts which have come on record in these petitions.

As per the judgment 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. The relevant paragraph of the said judgment is as under:-

> *" - x - x -*
>
> *8. 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 from 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. ...*
>
> *- x - x -"*

In these petitions, no impediment has been brought to the notice of this Court, which would have given jurisdiction to the respondents to withhold the said pensionary benefits of the petitioners, and therefore, the delay in releasing the said benefits to the petitioners is attributable to the respondents only.

Further, a co-ordinate Bench of this Court, 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*
>
> *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, as the delay in releasing of the pensionary benefits to the petitioners is attributable upon the respondents alone, therefore, the petitioners have made out a case for the grant of interest on the said delayed release of pensionary benefits to them by the respondents, which is assessed at 6% per annum from the date the said benefits became due till the date, when the said pensionary benefits were actually released to them.

Let the calculation of the interest under this order be done by the respondents concerned within a period of two months from the date of receipt of the copy of this order and the amount so calculated, be released to the petitioners within a period of four weeks thereafter.

Photocopy of this order be placed on the files of other connected cases.

12.05.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

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