IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(221) **CWP-258-2017**
Date of Decision : March 15, 2022

Narinder Kumar Sharma **.. Petitioner**

Versus

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

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab, for respondents No. 1 and 2.

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

HARSIMRAN SINGH SETHI J. (ORAL)

In the present case, the prayer of the petitioner is for the grant of interest on the delayed release of the certain pensionary benefits, which were withheld by the respondents after the petitioner retired from service on attaining the age of superannuation on 30.11.2007.

Learned counsel for the petitioner submits that there was an FIR registered against the petitioner being FIR No.16 dated 20.03.2006, which was pending against the petitioner at the time of retirement but the petitioner was found innocent by the competent Court of law vide judgment dated 17.02.2014 (Annexure P-2) and therefore, once the allegations alleged against the petitioner were not proved, the petitioner is entitled for interest on the delayed release of the pensionary benefits.

Learned counsel appearing on behalf of respondent No.3 submits that the respondents were within jurisdiction to withhold certain pensionary benefits of the petitioner due to the pendency of the criminal proceedings, which admittedly was concluded only on 17.02.2014, after which all the benefits for which the petitioner is entitled for, were released to the petitioner without any delay. Learned counsel for respondent No. 3 further submits that keeping in view the facts and circumstances of this case, 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.

It is a conceded position that on the date when the petitioner attained the age of superannuation on 30.11.2007, there were criminal proceedings pending against the petitioner. That being so, it cannot be said that the respondents did not had jurisdiction to withhold his pensionary benefits but as the petitioner was acquitted of the allegations alleged against him in the criminal proceedings and petitioner was found innocent, the pendency of the proceedings pending against the petitioner at the time of retirement, cannot come in the way so as to claim the interest on the pensionary benefits.

Once the Department alleged allegations against the petitioner and on the basis of those allegations, an FIR was registered against the petitioner and the amount for which the petitioner became entitled for upon his superannuation was withheld, and the Department failed to substantiate those allegations before the competent Court of law, hence, pendency of the proceedings initiated at the instance of the respondent, cannot cause prejudice to the petitioner. The acts which are attributable to the respondent cannot cause prejudice to an employee as firstly by withholding the pensionary benefits on the basis of pendency of the criminal proceedings initiated at the instance of 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 failed to prove those allegations.

Keeping in view the facts and circumstances of this case, once the petitioner is found innocent of the allegations alleged and has suffered prejudice only due to the actions of the respondent-Department as the petitioner was prevented from availing his pensionary benefits upon his retirement for a sufficient long period of time and also 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 of settled principle of law.

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."

In the present case also, the amount which was retained by the respondent-Department under the pretext of pendency of the criminal proceedings against the petitioner has been used by the Department to its benefit and hence, the case of the petitioner for grant of interest on the delayed payments is covered by the above said ratio given by the learned co-ordinate Bench of this case.

Keeping in view the above, as the respondents had kept the amount with themselves and used the same, the petitioner becomes entitled for the grant of interest on the said account itself.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum from the date the amount became due till 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 four weeks thereafter.

March 15, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes