IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268 **CWP-21117-2021**
Date of Decision :31.08.2022

Sadhu Ram **...Petitioner**

Versus

State of Haryana and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate for the petitioner.

Mr. Vivek Saini, Addl. A.G. Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the prayer of the petitioner is for issuance of a direction to the respondents to release his retrial benefits, for which, he is entitled for, keeping in view the facts and circumstances of this case along with interest as the petitioner has already been acquitted in the criminal as well as departmental proceedings, which were initiated against him.

The facts leading to filing of the present writ petition are that the petitioner was appointed as Hindi Teacher in the Education Department, Haryana and was confirmed as such with effect from 01.01.1980. Thereafter, the petitioner was promoted as Lecturer in Hindi on 23.09.2002 and was later on promoted as Head Master in the year 2008. While the petitioner was working as Head Master, an FIR No.132 dated 16.05.2013 at Police Station Narwaan Sadar was registered against the petitioner along with one Rajender Singh, who was working as Science Master. Keeping in view the fact that an FIR was registered against the petitioner, he was arrested and was placed under suspension by the respondent-department from the same date i.e. 16.05.2013. Ultimately, vide order dated 9/11.07.2014 of the competent Court of law, the petitioner as well as said Rajender Singh were convicted and were awarded one year rigorous imprisonment.

Keeping in view the conviction of the petitioner, the services of the petitioner were terminated by the respondent-department on 27.11.2014 before he was to attain the age of superannuation.

Against the order of conviction dated 9/11.07.2014, the petitioner filed an appeal before this Court, which appeal came to be decided by this Court on 13.09.2018 and the petitioner was acquitted by this Court. After the acquittal of the petitioner by this Court, the respondent-department revived the departmental proceedings against the petitioner under the charge sheet dated 23.01.2014 (Annexure P/8), which was issued to him on the basis of same allegations as were in the criminal proceedings, which, departmental proceedings under the said charge sheet were pending against the petitioner at the time of his dismissal from service. After reopening of the enquiry proceedings, the respondents conducted enquiry against the petitioner and ultimately found him innocent and the said proceedings were dropped by the respondents vide order dated 06.01.2020 (Annexure P/14). Thereafter, the respondents have passed an order reinstating the petitioner in service on 05.07.2022 by withdrawing the order of dismissal of petitioner from service.

The petitioner claims that keeping in view the said facts, the petitioner is entitled for the grant of pensionary benefits alongwith interest as the petitioner had already attained the age of superannuation on 30.11.2014.

After notice of motion, the respondents have appeared. Learned counsel for the respondents submits that the claim of the petitioner for the release of his pensionary benefits already stands complied with as the pensionary benefits admissible to the petitioner i.e. gratuity, leave encashment and arrears of pension have already been released to him on 03.01.2020, 26.07.2022 and 31.07.2022 respectively. Hence, the grievance of the petitioner with regard to the release of his pensionary benefits already stands redressed and the present petition may be disposed off having been rendered infructuous.

Learned counsel for the petitioner submits that though, the pensionary benefits have already been released to the petitioner but as there is delay in the release of the same, the petitioner is entitled for the grant of interest on the said delayed release of the payments to him by the respondents.

Learned counsel for the respondents submits that the petitioner was convicted by the competent Court of law in the year 2014 and was acquitted by this Court only in the year 2018, after which date, the departmental proceedings, which were pending against him at the time of his dismissal from service, were reopened and the same were dropped only in January 2020 therefore, the petitioner is not entitled for the grant of interest as department was well within its jurisdiction to retain petitioner's pensionary benefits during the pendency of the aforementioned proceedings,

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

Keeping in view the facts, which have been detailed hereinbefore that the petitioner was initially convicted and was only acquitted by this Court on 13.09.2018 and thereafter, departmental proceedings, which were pending against him at the time of his dismissal from service in the year 2014 were revived but as the said charge sheet was also dropped by the respondents in January, 2020, after which date, there was nothing pending against the petitioner hence, the release of the pensionary benefits of the petitioner by the respondents in July/August, 2022 is to be treated as delay on the part of the respondents. No valid justification has come forward, as to why, the said benefits were released by the respondent-department only in July/August, 2022. In the absence of any valid justification from the respondent-department, the said delay is attributable to them only.

The question which arises here is as to from which date, the petitioner is entitled for the grant of interest. The petitioner was acquitted by the competent Court of law on 13.09.2018 and though, after the said date, the respondents revived the departmental proceedings, which were pending against the petitioner at the time of his dismissal from service, but respondent/department failed to prove the allegations alleged in the said proceedings against the petitioner and dropped the same vide order dated 06.01.2020.

That being so, it is held that after 13.09.2018, there was no valid ground with the respondents to withhold the pensionary benefits of the petitioner, hence, the petitioner is held entitled for the grant of interest from the said date.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of***

Punjab and others, 1997(3) SCT 468, has held that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case there is no impediment in the release of the same. The relevant paragraph of said judgment is as under:-

> *"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 front 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."*

Above mentioned law needs to be applied in the cases where initially impediment in the release of the pensionary benefits existed at the time of retirement but ceases to exist later on. In these circumstances, the respondents should release the withheld benefits within a period of two months from the day when the impediment ceases to exist.

In the present case, impediment if any, keeping in view the facts and circumstances of this case ended on 13.09.2018 hence, within a period of two months after the said date, it was incumbent upon the respondents to release the pensionary benefits of the petitioner.

Hence, the petitioner is held entitled for interest @ 6% per annum on the payments of pensionary benefits, which have been released to him after 01.12.2018 till the date the same were actually released to him.

Let the computation of interest be done by the respondents within a period of two months from the date of receipt of copy of this order and the amount so calculated shall be paid to the petitioner within a period of four weeks thereafter

August 31, 2022 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No