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

(231) **CWP No. 2648 of 2017**
Date of Decision : 10.05.2022

Balwinder Singh
...Petitioner

Versus

UCO Bank and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Kumar Goyal, Advocate for
Mr. Simranjeet Singh Sidhu, Advocate for the petitioner.

Mr. Shekhar Verma, Advocate for the respondents.

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Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioner is for the grant of interest on the delayed release of the gratuity for which the petitioner was entitled for after he was compulsorily retired by the respondents.

As per the averments made in the petition, the petitioner was served a charge-sheet on 16.08.2005 and after the petitioner was found guilty in the said charge-sheet, petitioner was compulsorily retired from service on 08.03.2006 and in the order by which the petitioner was compulsorily retired, it was mentioned that the gratuity due to the petitioner under Regulation, will be released. The petitioner kept on demanding gratuity but the same was not released to him and ultimately, the petitioner filed the present petition. During the pendency of the present petition, the gratuity for which the petitioner was entitled for, was released to him and now the petitioner is claiming interest on the delayed payment of the gratuity.

Learned counsel appearing on behalf of the respondents contests the claim of the petitioner on the ground that once the petitioner was found guilty in the misconduct, he was compulsorily retired and no gratuity was admissible to him and it was only during the pendency of the present petition, the respondents decided to release the same as a welfare measure.

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

It is not a case that the petitioner was dismissed from service in pursuance to the disciplinary proceedings held against him, meaning thereby that the petitioner was entitled for the gratuity in respect of the service rendered by him up to the date of compulsorily retirement. Even under the Payment of Gratuity Act, 1972, the gratuity can only be forfeited in case an employee is dismissed from service on mis-conduct, which is not the case in hand as the petitioner was compulsorily retired only and not dismissed from service.

Further, once the petitioner was held entitled for the grant of gratuity and the said gratuity was released after a period of 10 years, the petitioner is entitled for the grant of interest keeping in view the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** according to which, an employee is entitled for the release of the pensionary benefits within a period of two months of the retirement in case there is no impediment, failing which the employee is entitled for interest. The relevant paragraph of the 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."*

Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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 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."

Keeping in view the above, the claim of the petitioner for the grant of interest is squarely covered by the settled principle of law noted here-in-before. Hence, petitioner is entitled for interest on the gratuity amount from the date the gratuity became due till the actual release of the same @ 6% per annum. Let the computation of interest under this order be done by the respondents within a period of two months of the receipt of copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

Petition is allowed in above terms.

May 10, 2022 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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