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

(230) **CWP-24852-2018**
Date of Decision : March 17, 2022

Om Parkash Yadav **.. Petitioner**

Versus

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

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Chahal, Advocate, for the petitioner.

Mr. Narender Singh Behgal, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioner is that the pensionary benefits for which the petitioner is entitled for, were released with delay, hence, keeping in view the settled principle of law, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

As per the facts mentioned in the petition, the petitioner was appointed as Junior Engineer on 16.01.1979 and retired as Assistant Sub Divisional Engineer after attaining the age of superannuation on

31.05.2016.

Learned counsel for the petitioner submits that two charge sheets issued on 05.03.2014 and 17.03.2015 were pending on the day when the petitioner retired and keeping in view the said fact the petitioner was not extended certain pensionary benefits. Learned counsel for the petitioner further submits that the said charge sheets were dropped by the respondents as the allegations were not proved and it was only thereafter, the pensionary benefits of the petitioner were released and therefore, keeping in view the facts and circumstances of this case, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

Learned counsel for the respondents concedes the factum that the certain pensionary benefits of the petitioner were not released keeping in view the fact that two charge sheets (Annexures P-3 and P-4) were pending against the petitioner on the date when he attained the age of superannuation and retired and both the charge sheets were dropped by the competent authority on 24.10.2017, after which the petitioner was extended the retiral benefits along with other benefits such as arrears of the revised pay scale. The details of the benefits which have been released to the petitioner as mentioned in paragraph 9 of the reply, are as under:-

Sr. No.	Particulars	Amount	Letter No and date of authorities issued by Accountant General (A & E), Haryana.
1.	Gratuity	Rs.11,11,869/-	Pen- 2/1217186203186203/3/P/17/ 15/193176 dated 26.12.2017
2.	Commuted value of pension	Rs.6,11,979/-	Pen- 2/1317186203186203/3/P/17/ 15/193176 dated 26.12.2017

3.	Revised Pension	Pension was revised from Rs.15285/- to 40100/- p.m. w.e.f. 01.06.16	Pen- 2/1116140288140288/3/P/18/ 15/199740 dated 18.04.2018
4.	Revised gratuity	Rs. 2,11,413/- (Total gratuity Rs.13,23,300/- less already paid Rs.11,11,869/-	Pen- 2/1218192788192788/3/P/18/ 15/199740 dated 18.04.2018
5.	Revised commuted value of pesnion	Rs. 9,99,272/- (Gross CVP of Rs.16,11,979/- less already paid Rs.6,11,979/-	Pen- 2/1318192788192788/3/P/18/ 15/199740 dated 18.04.2018
6.	Revised Pension	Pension revised from 40,100/- to Rs.41,650/- p.m. w.e.f. 01.06.2016	Pen- 2/1116144028814028 8/3/P/18/ 15/222638 dated 10.12.2018
7.	Revised gratuity	Rs. 51,150/- (Total grautity Rs.13,74,450/- less already paid Rs.13,23,300/-	Pen- 2/1218214880214880/3/P/18/ 15/222638 dated 10.12.2018.

Learned counsel for the respondents submits that as there is no delay in the release of the retiral benefits after dropping of the charge sheets, the petitioner is not entitled for the grant of interest.

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

Once the Department alleged allegations against the petitioner and on the basis of those allegations, the amount for which the petitioner became entitled upon his superannuation was withheld, and thereafter, the Department failed to substantiate those allegations, hence, the issuance of the charge sheets or pendency of the same at the time of retirement cannot be a reason to cause prejudice to the petitioner. The acts which are attributable to the respondents cannot cause prejudice to an employee by firstly withholding his pensionary benefits on the basis of pendency of the charge sheets issued by the Department alleging certain allegations and thereafter, by denying him 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 disciplinary 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.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 9% 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 17, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes