IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.4859 of 2022 in/and
CWP No. 2675 of 2017
Date of Decision:-04.04.2022

Bhag Singh

...Petitioner

Versus

Punjab Mandi Board and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Madhav Pokhrel, Advocate
for the applicant-petitioner.

Mr. Sanjeev Sharma, Advocate
for the respondents.

HARSIMRAN SINGH SETHI J.(Oral)

CM-4859-2022

For the reasons mentioned in the application, same is allowed and the replication/rejoinder is ordered to be taken on record.

CWP-2675-2017

The present petition has been filed for grant of interest on the delayed release of pensionary benefits.

Learned counsel for the petitioner argues that the petitioner retired from service on 30.06.2015 but his pensionary benefits were retained by the respondents despite the fact that there was no proceeding pending against him, which would give the jurisdiction to the respondents to withhold the release of pensionary benefits of the petitioner. Learned counsel for the petitioner submits that as the release of the pensionary benefits is beyond two months of the date of retirement, keeping in view the judgment of Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, the petitioner is entitled for the grant of interest.

After notice of motion, the respondents have filed the reply, wherein the respondents have submitted that though, there is no charge-sheet, which was issued to the petitioner but while the petitioner was in service, three cheques, which were received by the petitioner on account of market fee, the petitioner was supposed to hand over the same to the department, but the same were not handed over and were retained by him and those cheques could not be encashed as validity of those cheques expired and therefore, till the petitioner rectified the said mistake and got the new cheques issued from the company concerned, his pensionary benefits were retained, which is a justifiable reason and after the petitioner had done the needful, his case was sent for consideration for the grant of pensionary benefits and the process took some time and therefore, keeping in view the facts and circumstances of this case, the petitioner is not entitled for the grant of interest on the delayed release of pensionary benefits.

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

It is a conceded position in the present case that there was no disciplinary proceedings pending against the petitioner at the time of his retirement and none was initiated thereafter on any misconduct on the part of the petitioner. The jurisdiction to withhold the pensionary benefits only arises under certain circumstances where disciplinary proceedings or a criminal proceedings are pending before the department or the competent Court of law as the case may be. In the present case, no such factual situation has been brought to the notice of this Court, which would give the jurisdiction to the respondents to withhold the pensionary benefits of the petitioner. The question that whether the respondents can force an employee to perform certain acts without serving a charge-sheet so as to get the pensionary benefits release, the same is also beyond jurisdiction of the respondents. An employee, who has retired, has no source of income and is entitled for the release of pensionary benefits within a period of two months in case there is no impediment. The relevant paragraph of **A.S. Randhawa**'s case (supra) reads 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.”

In the present case, the impediment being cited by the respondents to withhold the pensionary benefits of the petitioner is not a valid justification or is not a valid ground as envisaged under law. Once, there is no disciplinary proceedings pending against the petitioner at the time of his retirement, and none was initiated thereafter also, the respondents were under obligation to release the pensionary benefits within a period of two months of retirement of the petitioner.

Further, 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 granted. 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.”*

The case of the petitioner is squarely covered by the above said decisions in his favour for the grant of interest on the delayed payment.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the retiral benefits released to him after a delay of two months from the date of his retirement. The petitioner will be entitled for interest from the date the amount became due till the same is released. 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 three weeks thereafter.

The writ petition is allowed in above terms.

April 04, 2022 **(HARSIMRAN SINGH SETHI)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No