

**212 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-29197-2017

Date of Decision: 31.03.2022

Sukhwinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Kumar, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, though the challenge is to order dated 04.08.2015 (Annexure P-13) but learned counsel for the petitioner submits that the prime grievance of the petitioner is that despite of his retirement on 30.09.2012, the pensionary benefits were not released to him immediately thereafter within a reasonable period of time, hence, the petitioner is entitled for the grant of interest on the said delayed payments.

Learned counsel for the petitioner further submits that the pensionary benefits were released to the petitioner by the respondents after a delay of more than two months from his retirement and that too without there being any impediment, therefore, the said delay is attributable upon the respondents only and the petitioner is entitled for the grant of interest on the said delayed payments.

After notice of motion, respondents have filed a reply, wherein they have defended the impugned order dated 04.08.2015 (Annexure P-13)

on the ground that the payments for which the petitioner was found entitled

for have already been released in his favour.

Learned State counsel submits that as the service-book of the petitioner was not complete and the last pay drawn was yet to be ascertained at the time of his retirement, therefore, the fixation of his pensionary benefits was delayed and as the delay is procedural one, without there being any intension on the part of the respondents to delay the said payments, the petitioner's prayer for the grant of interest on the delayed release of pensionary benefits 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 the petitioner retired on 30.09.2012 and there was no impediment in release of the pensionary benefits of the petitioner as on the said date as the criminal case which he was facing had already been decided by learned trial Court in January, 2012 itself.

From the impugned order dated 04.08.2015 (Annexure P-13), it is clear that the General Provident Fund amounting to Rs.3,35,464/- was released to the petitioner on 02.12.2013, the amount of Rs.13,928/- on account of the Group Insurance Claim was released to him on 30.10.2014, the amount of Rs.2,54,730/- on account of the leave encashment was released to him on 15.05.2015 and the death-cum-retirement gratuity amounting to Rs.2,61,098/- was released to the petitioner on 19.06.2015. The pension payment order was also issued in favour of the petitioner but after a delay.

It is a settled principle of law laid down by the Full Bench of this Court while passing judgment in **"A.S. Randhawa Vs. State of Punjab**

and others”, 1997(3) SCT 468 that an employee who has not been released the pensionary benefits within a period of two months from superannuation becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits. The relevant paragraph of the said judgment is as under:-

“ - x - x -

8. 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 retiree 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 from 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. ...

- x - x -”

Further, a co-ordinate Bench while passing order in CWP-15867-2001 titled as **“J.S. Cheema Vs. State of Haryana and others”**, decided on 20.11.2013, held that even where an amount has been retained by a Department, which actually belonged to the employee, and has used the same to its benefit, and the employee has suffered prejudice due to the non-release of the said amount, the employee becomes entitled for the grant of interest, so as to compensate him for the said prejudice. The relevant

paragraph No.5 of the judgment is as under:-

“ x -- x -- x

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 laying 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.

x -- x -- x”

Keeping in view the above, the delay in release of the pensionary benefits of the petitioner is of more than two months after his retirement and that too without there being any impediment. The delay due to non-completion of the service-book cannot be attributed upon the petitioner so as to deny him the pensionary benefits. The said delay is attributable to the respondents only. Further it is not a disputed fact that the amount for which the petitioner became entitled for on 01.10.2012 was retained for more than 2-3 years by the respondents, hence the case of the petitioner for the grant of interest on the delayed release of the pensionary benefits is covered by the laws cited hereinbefore in the judgments passed in **A.S. Randhawa and J.S. Cheema's case** (supra) and the petitioner is granted the interest at the rate of 6% per annum from the date the said amount became due till the date when the same were released to him.

Let the calculation of the interest under this order be done within a period of two months from the date of receipt of the copy of this order and the amount so calculated be released in favour of the petitioner within a period of next one month.

No further point for consideration has been raised by learned counsel for the petitioner.

Allowed in above terms.

31.03.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No