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

221 CWP-28164-2018
Date of Decision : 07.04.2022

Dr. Ajay Kumar ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Ms.Anju Sharma Kaushik, DAG, Punjab.

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<u>Harsimran Singh Sethi, J.(Oral)</u>

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

As per the averments made in the petition, the petitioner, who was working as a Medical Officer with the Government of Punjab, sought voluntarily retirement and gave three months notice to be effected from 01.10.2016 onward. Though, no order was passed on his request, the petitioner stopped performing his duties and ultimately, the request of the voluntarily retirement was accepted on 22.08.2017 but w.e.f. 01.10.2016.

Learned counsel submits that thereafter, the gratuity for which the petitioner was entitled for, was paid to him on 20.04.2018 and pension was released on 01.06.2018 along with arrears. Learned counsel submits that the GIS amount has still not been paid to him and the leave encashment is also yet to be released to the petitioner. Prayer of the petitioner is to issue appropriate direction to release all the pending benefits forthwith and pay interest on the delayed release of the pensionary benefits keeping in view the law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468.**

In the reply, the respondents have mentioned that as the petitioner has filled up the form for seeking the necessary benefits on 06.04.2019, the delay in release of the benefits is attributed to the petitioner and further that after the petitioner submitted the required papers on 06.04.2019, the matter was pending before the Treasury Officer for release of all the said benefits. The respondents have not shown whether, the payments have been released even upto now or not.

Learned counsel for the petitioner submits that the petitioner is yet to receive the amount under GIS as well as the leave encashment.

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

From the facts, it transpires that the petitioner applied for grant of voluntarily retirement with three months notice to be effected from 01.10.2016. The petitioner stopped discharging his duties till the prayer of the petitioner was accepted by the respondents on 22.08.2017. Once the said request was accepted, it was incumbent upon the respondents to release the pensionary benefits within a reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468.** According to which, the pensionary benefits are to be released within a period of two months from the date of the retirement, in case there is no impediment failing which, the employee is entitled for grant of interest. The relevant paragraph of the 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."*

Applying the said judgment in the case of the petitioner, once the respondents accepted the request of voluntarily retirement of the petitioner on 22.08.2017, it was incumbent to release the pensionary benefits by 01.11.2017 which has not been done. The gratuity was released to the petitioner on 20.04.2018 and the pension along with arrears was released on 01.06.2018. The GIS is yet to be released. Though, leave encashment sanctioned in the month of June 2019, but is yet to be released. That being so, there is a delay in release of the pensionary benefits for which the petitioner is entitled for and no justifiable reason has come from the respondents for the said delay, hence, the delay is attributable to the respondents.

As far as the ground being taken by the respondents that the petitioner has filled up the form on 06.04.2019 for release of the pensionary benefits, the same cannot be believed for the reason that the gratuity and the pension were released to the petitioner on 20.04.2018 and 01.06.2018 and in case, the petitioner had not filled up the required papers for the release of the pension, then two retiral benefits would not have been released to him. This shows that there is a discrepancy in the averment being made by the respondents in the reply.

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 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."

Keeping in view the above, the respondents are directed to release the pensionary benefits within a period of two months from the receipt of a certified copy of this judgment and all the pensionary benefits will carry interest @ 6% per annum from 01.11.2017 onwards till the payment of the same. Let the calculation of amount be done within a period of two months and be released to the petitioner within one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

07.04.2022
anju

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No