

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(209)

CWP No. 8805 of 2016
Date of Decision : 05.08.2022

Dilawar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Kiran Pal Singh, 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 became entitled for after his retirement on 31.01.2012, were only released to him by the respondents on 27.02.2015, which was released after undue delay and, therefore, petitioner is entitled for the grant of interest on the delayed release of pensionary benefits.

As per the averments made in the petition, the petitioner, who was working as Kanoongo, retired on attaining the age of superannuation on 31.01.2012. On the said date, the petitioner was facing criminal case due to which, the gratuity admissible to the petitioner was withheld by the respondents. The petitioner was acquitted by the competent Court of law on

27.02.2015. The claim of the petitioner is that he is entitled for the grant of interest on the delayed release of the gratuity.

After notice of motion was issued, the respondents have filed their reply, wherein, it has been submitted that as criminal proceedings were pending against the petitioner, department was well within its jurisdiction to withhold his gratuity and after the criminal proceedings came to an end, an appropriate order was passed releasing the pensionary benefits of the petitioner and, therefore, the claim of the petitioner for the grant of interest may kindly be declined.

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

Concededly, the petitioner was facing a criminal trial on the date when he retired on 31.01.2012. That being so, keeping in view the rules governing the service, the respondents were within their jurisdiction to withhold the gratuity admissible to the petitioner. After the petitioner was acquitted by the competent Court of law on 04.03.2014, the petitioner became entitled for the release of the benefit.

As per 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**, 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 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."

Applying the same ratio, wherever there is an impediment for the release of the benefits, the employee is entitled to the withheld pensionary benefits within a period of two months after the impediment ceases to exist.

In the present case, the criminal proceeding, which was the impediment in the release of the gratuity, ceased to exist on acquittal of the petitioner on 04.03.2014 hence, the respondents were under an obligation to release the pensionary benefits of the petitioner by 31.05.2014. As, concededly the benefits were released to the petitioner on 27.02.2015, the petitioner becomes entitled for the grant of interest on the gratuity starting from 01.06.2014 onwards till the actual release of the same i.e. 27.02.2015.

Learned counsel for the respondents has not been able to explain as to why, the respondents took one year to release the gratuity after the acquittal of the petitioner.

That being so, the delay is attributable to the respondents only.

Hence, the petitioner is held entitled for the grant of interest on the payment

of gratuity amount paid to him @ 6% per annum from 01.06.2014 till 27.02.2015. Let the amount of interest under this order be calculated 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.

Learned counsel for the petitioner submits that the petitioner was not paid the LTC for which he was entitled for.

Learned counsel for the respondents submits that no such grievance has been raised by the petitioner in the present petition and in case, the petitioner has any grievance, he should approach the respondents for the redressal of the claim by filing an appropriate representation and if any such representation is received, appropriate order will be passed within a period of eight weeks of the receipt of such representation.

Petition is allowed in above terms.

August 05, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No