IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(222) **CWP-3603-2017**
Date of Decision : October 29, 2022

B.S. Chaudhary **.. Petitioner**

Versus

Haryana State Cooperative Supply and Marketing Federation Limited (HAFED) Panchkula
.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Antal, Advocate, for
Mr. Ravi Verma, Advocate, for the petitioner.

Mr. Vishal Garg, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the grievance of the petitioner is that though the petitioner has already retired from service on attaining the age of superannuation on 30.04.2012 but the gratuity is not being released to the petitioner and that too without any valid justification.

The prayer of the petitioner is that appropriate direction be issued to the respondents to release his gratuity along with interest.

After notice of motion, the respondent has filed the reply and in paragraph 2 of the preliminary submission of the reply, it has been mentioned that there are disciplinary proceedings pending against the petitioner due to which, his gratuity was withheld.

In the replication to the said written statement, the petitioner has already clarified the fact that the charge sheet dated 29.07.2010 has already been dropped on 28.12.2017 and the charge sheet dated 03.01.2014 has also been dropped by the respondent on 25.07.2017 and with regard to the arbitration case, nothing has come against the petitioner so as to withhold the payment of gratuity, hence, there is no impediment as of now to release the gratuity of the petitioner.

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 has already retired from service on attaining the age of superannuation on 30.04.2012. That being so, the petitioner is entitled for the release of pensionary benefits including the release of the gratuity.

From the facts which have already been brought on record, no disciplinary proceedings are pending against the petitioner as of now, which would give the jurisdiction to the respondent to withhold his pensionary benefits.

Further, even the charge-sheets which were pending against the petitioner, have been dropped by the respondent meaning thereby that there is no impediment in the release of the pensionary benefits of the petitioner as of now.

As no impediment has been brought to the notice of this Court in the release of the gratuity, the respondents are directed to release the gratuity of the petitioner forthwith.

The question which arise is whether the petitioner is entitled for the grant of interest on the delayed release of gratuity and the leave encashment, which benefit was also released in the year 2015 and that too without any valid justification and therefore, the petitioner is entitled for the grant of interest on the delayed payment of leave encashment as well as gratuity, which is yet to be released.

As per the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*****,** the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment failing which employee is entitled for the grant of interest. The relevant paragraph of 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 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 charge-sheets stated to be pending against the petitioner, were dropped by the respondent, hence, the pendency of those charge-sheets cannot cause prejudice to the petitioner as the respondent failed to substantiate the allegation alleged against 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 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 prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the gratuity as well as leave encashment from the date the same became due till the release of the same. Let the order be complied with within a period of two months from the date of receipt of copy of this order.

The writ petition is allowed in above terms.

October 29, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No