IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

254 CWP-143-2021
Date of Decision : 04.04.2022

Kuldeep Singh ... Petitioner

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Anil Ahluwalia, Advocate for
Mr. B.S.Sidhu, 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 with a prayer that the pensionary benefits for which the petitioner is entitled for, has not been released by the respondents and that too without any valid justification.

Learned counsel for the petitioner argued that the petitioner retired from service on attaining the age of superannuation on 31.01.2020 and despite the fact that more than two years have elapsed, the pensionary benefits have not been released. Learned counsel submits that though the notice of motion was issued on 04.02.2021, even after a expiry of more than one year, no reply has been filed and no details have been given as to why, the pension of the petitioner is yet to be released.

Learned State counsel submits that keeping in view the fact that there was a lockdown, hence, the prayer of the petitioner could not be processed and the Contributory Provident Fund has been released to the petitioner on 18.04.2020, leave encashment was paid to the petitioner on 29.12.2020 and the gratuity has been paid to the petitioner on 19.04.2021 and an objection was raised by the office of Accountant General, Punjab, with regard to the release of pension due to the non-mentioning of legal heirs and the said objection has now also been processed and the pension for which the petitioner is entitled for will also be released shortly.

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

The present petition has been filed for release of the pensionary benefits. As per the judgment of Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** 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. 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."*

From the pleadings of the parties, it is clear that there was no impediment for the release of the pensionary benefits of the petitioner. Imposing of lockdown is not a valid reason for the respondents to withhold the pensionary benefits. Rather, in the lockdown benefits should have been released by the respondents so that the employee does not suffer the financial crises during the said period. In the present case, the delay in release of some benefits is more than two months that too without there being any impediment and hence, the petitioner becomes entitled for the grant of interest.

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 pensionary benefits which have been released to the petitioner with delay, which is attributable to the respondents, the petitioner is entitled for the interest @ 6% per annum from the date the pensionary benefits became due, till the payment of the same.

With regard to the pension, the respondents are directed to finalise the issue within a period of four weeks from the date of the receipt of a certified copy of this judgment and release the said pension to the petitioner along with arrears. As the petitioner is not at fault even in respect of the release of the pension, the arrears of pension will carry the interest as mentioned hereinbefore.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

04.04.2022
anju

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