

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.222

CWP-9063-2017

Date of Decision: 27.09.2022

Bal Kishan Sharma

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bhagwat Dayal, Advocate
for the petitioner.

Mr. S.S.Mann, Addl. A.G.Haryana.

Mr. Padamkant Dwivedi, Advocate
for respondents No.2 and 3.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioner is that though he has already retired from service on 30.04.2014 but all the pensionary benefits for which he is entitled for, have not been released to him, hence, the respondents may kindly be directed to release the pensionary benefits to the petitioner along with interest keeping in view the delay which has already occurred upto now.

As per the factual averments made in the present petition, the petitioner retired on attaining the age of superannuation on 30.04.2014. On the said date, two chargesheets were pending against the petitioner due to which, his certain pensionary benefits were withheld. The chargesheets were issued to the petitioner in February/April, 2013.

Learned counsel for the petitioner submits that there is no valid ground with the respondents to withhold the pensionary benefits of the petitioner as of now hence, the respondents be directed to release the same along with interest.

After notice of motion, the reply has been filed wherein the respondents have submitted that at the time when the petitioner retired, two chargesheets dated 27.02.2013 and 04.04.2013 were pending against him and as per the reply, the chargesheet dated 27.02.2013 was taken to the logical end on 20.04.2015 and the petitioner was issued a punishment of warning. The second chargesheet dated 04.04.2013 was filed by the department on 26.02.2015.

As per the reply, the petitioner was also issued another chargesheet on 04.06.2015 i.e. after his retirement, which disciplinary proceeding is pending, due to which, the pensionary benefits of the petitioner have been withheld, hence, the prayer of the petitioner with regard to the release of the withheld 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 as on the date of retirement of the petitioner i.e. 30.04.2014, two chargesheets dated 27.02.2013 and 04.04.2013 were pending against the petitioner, which gave the jurisdiction to the respondents to withhold certain pensionary benefits of the petitioner but after the said proceedings in respect of those two chargesheets came to an end in April, 2015, there was no valid justification with the respondents to withhold the pensionary benefits any further, hence, the respondents were

under obligation to release the pensionary benefits within a period of two months from April, 2015 onwards.

The assertion of the respondents that after the retirement, the petitioner was chargesheeted in June, 2015, which disciplinary proceeding is pending against the petitioner and gave the department the right to withhold his pensionary benefits, is not a correct proposition as per settled principles of law. Only the chargesheet which was pending against the employee at the time of his retirement can be taken into account for withholding the pensionary benefits. Any chargesheet issued subsequent to the retirement will not give jurisdiction to the employer to withhold the pensionary benefits of the employee concerned. Reliance in this regard can be placed upon the judgment of this Court rendered in **CWP No.26406 of 2015** decided on 06.11.2019, titled as **Subha Chand versus State of Haryana and another.**

Keeping in view the above, the respondents did not have any right to withhold the pensionary benefits any further after the proceedings in respect of the two chargesheets which were served upon the petitioner during his service career, came to an end in April, 2015.

As per the judgment passed by Hon'ble Division Bench of this Court in the case of **A.S. Randhawa Vs. State of Punjab and others**, **1997(3) SCT 468**, an employee is entitled for the release of his pensionary benefits within a period of two months from the date of his retirement in case there is no impediment, failing which the employee concerned is entitled for the grant of interest on the delayed release of the pensionary benefits. The relevant paragraph No.8 of the said judgment reads 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.”

The said proposition of law is also to be made applicable where though, there was an impediment at the time of retirement but the same ceases to exist thereafter. Hence, the employee is entitled for the release of pensionary benefits within a period of two months of the impediment ceases to exist.

In the present case, it is a conceded position that in April, 2015 though the two chargesheets which were issued to the petitioner during service career, were taken to their logical end, after which date, there was no valid impediment so as to give jurisdiction to the respondents to withhold the pensionary benefits of the petitioner any further, hence, the non release of the pensionary benefits to him by the respondents after April, 2015 is held to be arbitrary and hence, the respondents are directed to release the withheld pensionary benefits of the petitioner forthwith along with interest

@6% per annum starting from 01.06.2015 onwards till the actual payment is made.

The petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

27.09.2022
Maninder

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