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IN THE HIGH COURT OF PU NJAB & HARYANA AT CHANDIGARH

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CWP-8424-2018
Date of Decision: 21.03.2022

Versha Kumari

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.D. Sharma, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

(Through Video Conference)

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<u>HARSIMRAN SINGH SETHI J.</u> (ORAL)

The present petition has been filed for release of the retiral benefits to the petitioner along with interest.

Learned counsel for the petitioner argues that the petitioner retired on attaining the age of superannuation on 28.02.2015 and despite the fact that Pension Payment Order was issued on 02.09.2015, but no pension was released to the petitioner and the same was paid to the petitioner for the first time on 29.01.2016, after a period of one year, approximately.

Learned counsel for the petitioner further submits that even the commuted value of the pension was also paid in January, 2016 and the gratuity was released to the petitioner in March, 2016. Learned counsel also submits that the provident fund amounting to Rs.9,73,153/- was paid to the petitioner on 21.11.2017, and therefore, as there is a delay in releasing of the retiral benefits, the petitioner is entitled for the grant of interest on the said delayed payments, keeping in view the settled principle of law as laid down by the Full Bench of this Court in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, wherein it has been stated that an employee who has not been released the retiral benefits within a period of two months from superannuation despite there being no impediment, becomes entitled for the grant of interest for the delay in releasing of the pensionary benefits.

Learned State counsel submits that there was a procedural delay in the release of the retiral benefits but as the same was not intentional, the petitioner will not be entitled for the grant of interest on the said delayed release of payments.

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

The question of release of the retiral benefits to the employee has already been settled by the Full Bench of this Court in **A.S. Randhawa's case** (supra) wherein it is stated that an employee who has not been released the retiral benefits within a period of two months from superannuation without there being any impediment becomes entitled for the grant of interest for the delay in releasing of the retiral benefits. The relevant paragraph of the said judgment is as under:-

> *" - x - x -*
>
> *8. 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 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. ...

- x - x -"

Further, a co-ordinate Bench while passing order in **CWP-15867-2001** titled as ***"J.S. Cheema Vs. State of Haryana and others"***, decided on 20.11.2013, held that even where an amount has been retained by a Department, which actually belonged to the employee, and has used the same to its benefit, and the employee has suffered prejudice due to the non-release of the said amount, the employee becomes entitled for the grant of interest, so as to compensate him for the said prejudice. The relevant paragraph No.5 of the judgment is as under:-

" x -- x -- x

In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.*
>
> *x -- x -- x"*

Keeping in view the above, in the present case, there is a delay beyond the period of 2 months and that is without any justification. There was no impediment in the release of the retiral benefits to the petitioner. Even otherwise, the retiral benefits were retained by the respondents and used for their own benefits, and therefore, the case of the petitioner is squarely covered by the above cited settled principle of law for the grant of interest in his favour. Hence, the present petition *qua* the grant of interest is allowed, the petitioner is held entitled for interest at the rate of 6% per annum on the delayed payments of the retiral benefits from the date it was to be released till the actual payments were released to him.

Let the calculation of the interest under this order be done within a period of two months and the amount so calculated be released to the petitioner within a period of four weeks thereafter.

21.03.2022 **(HARSIMRAN SINGH SETHI)**
Bhumika **JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No