IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(319)

CWP No.23826 of 2021
Date of Decision : 17.10.2022

Mahabir Singh ....Petitioner

Versus

Haryana Agro Industries Corporation Ltd. And another

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Raman B. Garg, Advocate with
Mr. Mayank Garg, Advocate
for the petitioner.

Mr. Padamkant Dwivedi, Advocate
for the respondents.

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Harsimran Singh Sethi, J. (Oral)

Learned counsel for the petitioner submits that the question of law raised in the present petition has already been answered by this Court while passing order in CWP No.19280 of 2019, titled as **Babu Lal Vs. Managing Director, Haryana Agro Industries Corporation Limited,** decided on 06.09.2022 and the present petition be disposed of in the same terms.

Learned counsel for the respondents does not dispute the said fact and raises no objection for the grant of prayer of the petitioner for disposing of the present petition in terms of **Babu Lal's case (supra).**

Keeping in view of the joint request made by learned counsel for the parties, the present petition is disposed of in terms of **Babu Lal's**

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case (supra).

In case, the retiral benefits of the petitioner have not been released due to the pendency of the charge-sheet, as the said chargesheet cannot be a ground for withholding the benefits, the respondents are also directed to release the pensionary benefits of the petitioner in accordance with law within a period of four weeks from the date of receipt of a certified copy of this order.

At this stage, learned counsel for the petitioner argues that as there was no chargesheet pending against the petitioner on the date the petitioner attained the age of superannuation and retired, even serving of chargesheet subsequent to the retirement does not give jurisdiction to the respondents to withhold the pensionary benefits but in the present case without there being any jurisdiction to issue a chargesheet, the petitioner was issued a chargesheet after retirement due to which pensionary benefits have been withheld as well as act of the respondents in withholding the pensionary benefits of the petitioner is beyond their jurisdiction, which would entitile the petitioner the benefit of interest on the delayed release of the pensionary benefits. The respondents has not been able to cite as to what jurisdiction the department had to withhold the pensionary benefits at the time when the petitioner retired as concededly there were no disciplinary proceedings pending against the petitioner and also that the respondents did not had any jurisdiction to issue chargesheet after the retirement.

Keeping in view the above, it can be said that act of the repsondents in withholding the pensionary benefits of the petitioner was beyond the jurisdiction of the respondents as there was no valid

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impediment at the time of the retirement so as to give jurisdiction to the respondents to withhold the pensionary benefits.

Keeping in view the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** the petitioner is entitiled 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."

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

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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 of the above, the prayer of the petitioner for the grant of interest is allowed. The petitioner is held entitled for interest @ 6% per annum from the date the amount became due till the actual release of the same. The petitioner be released the pensionary benefits along with interest within a period of two months from the date of receipt of a certified copy of this order.

The writ petition is allowed in above terms.

October 17, 2022 **(HARSIMRAN SINGH SETHI)**
jt **JUDGE**

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

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