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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-1912-2019
Date of Decision: 21.03.2023

Gulbinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ranjivan Singh, Advocate with
Mr. Risham Raag Singh, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

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JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of the order dated 02.11.2018 (Annexure P-4) passed by respondent No.5 whereby the interest on the delayed payment on retiral/pensionary benefits to the petitioner has been declined in an illegal, arbitrary and unjust manner with a further prayer to direct the respondents to pay the interest on the delayed payment on his due retiral/pensionary benefits @ 18% per annum from the period it was due till its realisation as elaborated in Annexure P-11.

Learned counsel for the petitioner has submitted that all the retiral benefits have now been paid to the petitioner and the scope of the present petition confines only to the extent of grant of interest on the delayed payments. He further submitted that he has challenged the order dated 02.11.2018 (Annexure P-4) and he confines the scope of challenging the order only to the extent whereby the interest has been declined. He also submitted that the petitioner had retired as SDO on 31.07.2017 and all his pensionary benefits have been paid to him with delay which was not justified even in the reply filed by the State. Giving a breakup of the aforesaid, he submitted that as per the reply filed by the State, so far as the grant of GPF is concerned, the petitioner had moved his case by filing an appropriate application on 25.04.2017, which was much before his retirement and even as per the reply filed by the State, the same was paid to him on 13.03.2018 and therefore, there was no justification for the aforesaid delay nor any justification has been so stated in the reply filed by the State. So far as the Leave Encashment is concerned, as per the reply filed by the State, he had submitted pension papers on 17.07.2017 which was although prior to the date of retirement but about two weeks prior to his retirement which caused the delay, but at the same time, it has been so stated in the reply that the Leave Encashment was sanctioned by the Chief Engineer on 13.09.2017, therefore, the petitioner is entitled for grant of interest on the delayed payment of Leave Encashment as well at least from the aforesaid date, which was paid to the petitioner on 22.03.2018.

So far as the grant of Gratuity is concerned, even as per the reply, the petitioner had filed necessary application to the State on 17.07.2017 prior to the date of retirement i.e. about two weeks before and ultimately the Gratuity was paid in the month of July, 2018 and for that also there was no justifiable reason given by the State in the reply except that the petitioner was called by the Department for taking of the specimen signature. He submitted that such kind of justification given by the respondent-State that the petitioner did not come forward for specimen signature is totally unnatural and artificial as no person would avoid going to the Department for giving his specimen signature for taking his own money, and therefore, the petitioner is entitled for interest for the same at least counting from the date of retirement with an addition of two months since as per the reply filed by the State, he had submitted the papers on 17.07.2017. He further submitted that so far as the Commutation of Pension is concerned, as per the reply filed by the State, the same was given to the petitioner on 19.02.2018 for which there is also no justification for delay and therefore, the petitioner is entitled for the grant of interest in view of the judgment of Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***.

On the other hand, Ms. Akshita Chauhan, learned DAG, Punjab submitted that so far as the aforesaid dates are concerned, the same are not in dispute. She further submitted that the Department had already sanctioned the payment in time but there was a delay on the part of Audit and Accounts Department. She also submitted that apart from the above the petitioner except for GP Fund, had submitted his pension papers on 17.07.2017, just two weeks before his retirement and that was also one of the reason as to why there was a delay, and therefore, the petitioner is not entitled for grant of interest on the delayed payment.

I have heard the learned counsel for the parties.

The scope of the present petition has been confined only to the extent of grant of interest on the delayed payment. This is the second round of litigation which has been filed by the petitioner and in earlier petition, the directions were issued to pass a speaking order and vide Annexure P-4 speaking order was passed whereby the interest was declined to the petitioner and that is how the present petition has been filed. In the reply which has been filed by the State and the argument raised by the learned State counsel, there are two justifications which have been given by her. Firstly, except for GPF, the petitioner had submitted his pension papers on 17.07.2017 just two weeks prior to his retirement, which he ought to have submitted at least 6-8 months prior to his retirement and therefore, that was the reason as to why the delay was caused and also secondly, the Department had sanctioned the amount well in time but it was Audit and Account Department which had caused the delay, and therefore, the petitioner is not entitled for grant of interest on the delayed payment.

This Court is of the view that the justifications given by the State counsel and reply filed by the State cannot be accepted and at the most, considering the date of submission of pension papers by the petitioner, extra two months' time can be granted to the State but it cannot be said that the petitioner can be denied for all the interest for the entire period.

Consequently, the present petition is partly allowed. The petitioner shall be entitled for the grant of interest on the following heads as follows:-

I.	GPF	From the date of his retirement till the date of its disbursal.

II.	Gratuity, Commutation of Pension & Leave Encahsment	Petitioner shall be entitled for interest w.e.f. 01.10.2017 by giving a benefit of two months to the State after his retirement.

The interest on the aforesaid heads shall be given to the petitioner @ 6% per annum. The respondents are directed to calculate the same and pay to the petitioner within a period of four months from today.

In case, the aforesaid amount is not paid within aforesaid period, then the petitioner shall be entitled for future interest @ 9% per annum instead of 6% per annum.

21.03.2023 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

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