**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(279) **CWP No. 2128 of 2022
Date of Decision : 12.09.2023**

Sushil Gaur

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.P. Arora, Advocate and
Mr. Himanshu Arora, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

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Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that though he has already retired on attaining the age of superannuation on 31.12.2017 but his pensionary benefits have not been released and that too without any valid justification even though, as of now no impediment exists to withhold the pensionary benefits of the petitioner. The prayer of the petitioner is for directing the respondent-State to release the pensionary benefits of the petitioner along with interest.

2. Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that while the petitioner was working as Excise & Taxation Officer in the office of Deputy Excise and Taxation Commissioner, Panipat, he had framed assessment of one M/s

MSK Project (India Ltd.), Panipat and the audit objection was raised qua the said assessment. Keeping in view the recommendation of the State Vigilance Bureau, the petitioner was required to be charge sheeted for holding the disciplinary proceedings and under the anticipation of the said disciplinary proceedings, no benefit was released to the petitioner.

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

4. It may be noticed that the petitioner has retired on attaining the age of superannuation on 31.12.2017. No record of any disciplinary proceedings initiated against the petitioner have been brought to the notice of this Court, which will give jurisdiction to the respondents to withhold the pensionary benefits of the petitioner upon retirement. The only stand taken by the respondents is that as per the letter of the State Vigilance Bureau dated 04.04.2013, the petitioner and other officials had committed irregularity for which the disciplinary proceedings were recommended. It is a conceded position that despite the said recommendation made in April, 2013, till the petitioner retired on 31.12.2017 i.e. for a period of more than four and half years while the petitioner was in service, no charge-sheet was ever served upon the petitioner in pursuance to the recommendation of the State Vigilance Bureau dated 04.04.2013.

5. During the course of hearing, learned State counsel submits that there were other vigilance enquiries which were also pending against the petitioner. On being asked as to whether, the said vigilance enquiries

are still pending against the petitioner, learned State counsel on instructions from Mr. Anirudh Sharma, Superintendent O/o Excise and Taxation Commissioner submits that the said enquiries have already been dropped.

6. Keeping in view the said factual aspect, it can be safely said that there is no impediment in the release of the pensionary benefits of the petitioner. The petitioner is also claiming the interest on the delayed release of the pensionary benefits. It may be noticed that as of now, more than five years have elapsed since the petitioner retired and not even a single penny has been released in his favour keeping in view the fact that according to the respondents, the vigilance enquiries were pending against the petitioner.

7. It may be noticed that a similar question of law has already been settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** an employee is entitled for the release of the pensionary benefits within a period of two months from the retirement, in case there is no impediment, failing which the employee will be entitled for 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."

8. In the present case, there was no impediment against the petitioner so as to release the pensionary benefits.

9. Even otherwise, even if it is assumed for the sake of argument that due to the pendency of the vigilance enquiries, the respondents can withhold the pensionary benefits, still nothing has been found against the petitioner so as to take any action against the petitioner and the said enquiries have already been dropped. That being so, no further action is required to be taken as of now as neither the disciplinary proceedings are pending against him nor there is any vigilance enquiry pending against the petitioner as of now, hence, respondents are under obligation to release the pensionary benefits of the petitioner forthwith without there being any delay.

10. Once, nothing has come against the petitioner even qua the vigilance enquiries and the allegations have been dropped, the petitioner cannot be punished or can be caused further prejudice only due to the false allegations alleged against him. Once, the department has not been able to prove the allegations being alleged against the petitioner, the

petitioner has to be compensated for non-release of the pensionary benefits for a period of more than five years.

11. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. 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."*

12. Keeping in view the above, it is directed that the pensionary benefits of the petitioner be released within a period of four weeks from today along with interest @ 6% per annum from the date the pensionary benefits accrued to the petitioner till the actual release of the same. Let this order be complied with in the above said period.

13. Petition is allowed in above terms.

September 12, 2023 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No