

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CWP-9017 of 2021

Date of Decision:19.04.2023

Jagbir Singh

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Manveen Kahlon, Advocate, for
Mr. D. S. Pheruman, Advocate,
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab

JASGURPREET SINGH PURI, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus* directing the respondents to release the interest @18% per annum on the retirement dues which were paid to the petitioner about 3½ years after his retirement.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner retired as Deputy Range Officer on 31.01.2017 and there was neither any disciplinary proceedings nor any judicial proceedings nor any other statutory proceedings of any kind against the petitioner. She submitted that in fact there were some complaints against the petitioner which were pending before the department and one complaint before the

Vigilance Department but there were neither any criminal/judicial proceedings against the petitioner nor any departmental inquiry of any sort and all those complaints were even finally disposed of by the department itself. She submitted that even after the retirement of the petitioner in case the department wanted to exercise its power, the same could have been done under Rule 2.2 either under clause (a), (b) and (c) and the meaning of expression judicial proceedings and disciplinary proceedings is duly defined in the aforesaid Rules. She submitted that the complaint which has got no sanctity for the purpose of withholding the retiral benefits cannot become a ground for withholding the pension and pensionary benefits which are otherwise Constitutional Rights under Article 300-A of the Constitution of India.

She further submitted that when the pension and pensionary benefits were not paid to the petitioner, he filed a civil writ petition before this Court bearing No.15741 of 2019 in which vide Annexure P-3 dated 31.05.2019 a direction was issued to the respondents to pass an appropriate speaking order on the claim raised by the petitioner in the legal notice within three months. She submitted that no such speaking order was passed or conveyed to the petitioner despite the order passed by this Court nor anything has been so stated by the respondents in the reply filed by them. However, acting upon the directions to the extent of considering the payment of retiral benefits, the same were paid to the petitioner in April 2020 and that was also after a period of one year after the passing of the aforesaid order on 31.05.2019. She submitted that firstly the action of the respondent-State was contemptuous in nature for not complying with the order passed by this

Court and secondly even assumingly the speaking order was not required to be passed on the basis of payment which was made even then the payments were made after a period of about one year after the passing of the aforesaid order on 31.05.2019 since the payments were made in the month of April 2020 and in this way there had been a total delay of 3½ years in the payment of pension and pensionary benefits which have been withheld by the respondent-State without any authority of law.

On the other hand, Mr. Sandeep Chopra, learned DAG, Punjab submitted while referring to the reply filed by the State through its Divisional Forest Officer, Amritsar that the delay has occurred because there were four complaints against the petitioner including one vigilance inquiry which were ultimately disposed of and because of the pendency of these complaints, the pension and pensionary benefits got delayed. He submitted that in view of the above, the petitioner is not entitled for the grant of interest.

I have heard the learned counsel for the parties.

The petitioner retired as the Deputy Range Officer on 31.01.2017. There was no disciplinary proceedings or judicial proceedings or criminal proceedings or any other statutory proceedings against the petitioner at the time of the retirement of the petitioner or even thereafter. Even as per the reply filed by the State, there were some complaints against the petitioner and there was one complaint pertaining to the vigilance inquiry but there is no mention of any FIR or any criminal proceedings or any other statutory proceedings against the petitioner and those complaints were thereafter disposed of. Para 3 of the reply would show that the approval

of the retiral benefits were granted by the authority immediately after the retirement of the petitioner i.e. in the month of February 2017 and despite the fact that the approval was granted immediately after the retirement of the petitioner the same was not disbursed to the petitioner till April 2020.

It is also very surprising to note that when earlier the petitioner had filed a writ petition before this Court, this Court vide Annexure P-3 had specifically directed the respondents to pass a speaking order within a period of three months but neither speaking order was passed nor it has been so stated in the reply.

A perusal of the reply would show that the aforesaid order passed by this Court vide Annexure P-3 was not complied with and no speaking order was passed in pursuance of the directions issued by this Court vide Annexure P-3 on 31.05.2019. However, one order has been attached alongwith the present reply as Annexure R-3 which has been passed not in pursuance of the directions issued by this Court vide Annexure P-3 but in pursuance of one order which was passed in the present case dated 27.04.2021 wherein it was directed to consider the demand raised in the legal notice and decide within three months. A perusal of the aforesaid order would also show that again the same stand has been taken by the respondents that during the pendency of some complaints the benefits have been delayed.

It is a settled law that pension and pensionary benefits are Constitutional Rights under Article 300-A of the Constitution of India and they can be withheld or deprived of only by the authority of law. On the retirement of the petitioner, he was entitled for all the pension and

pensionary benefits. In case the respondents wanted to deprive the petitioner of any of the benefits or withhold the same, the same could have been done only in accordance with law under the statutory provisions of Rules which may include Rule 2.2 but in the present case the aforesaid provisions have not been invoked especially in view of the fact that there was neither any judicial or criminal or disciplinary proceedings against the petitioner. The mere pendency of some complaints against the petitioner cannot become a ground for deferment of pension and pensionary benefits. The respondents even did not care to decide the legal notice in pursuance of the order passed by this Court vide Annexure P-3 on 31.05.2019. Therefore, the action of the respondents is absolutely unjustified and oppressive in nature.

In view of the above, the present petition is allowed. The petitioner shall be entitled for interest @ 6% per annum from the date of his retirement till the date of disbursal on all the payments pertaining to the pension and pensionary benefits. The respondents are directed to calculate the aforesaid amount and paid to the petitioner within a period of four months from today.

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

The petitioner was earlier compelled to file a writ petition before this Court wherein a direction was issued to decide the legal notice but that legal notice has not been decided till date and the petitioner had to approach this Court again for the second time and now this time for the

purpose of grant of interest and the fact that there was no justification under the law for withholding the pension and pensionary benefits of the petitioner, he shall also be entitled for costs which are assessed as Rs.25,000/- which shall also be paid to the petitioner within a period of four months from today.

(JASGURPREET SINGH PURI)
JUDGE

April 19, 2023
dinesh

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