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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-8936-2019
Date of Decision: 10.01.2023

Ashok Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sunny Singla, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

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<u>JASGURPREET SINGH PURI, J.</u> (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction especially in the nature of certiorari of the impugned letter dated 12.01.2019 (Annexure P-7) vide which the salary of the petitioner for the period from 01.10.2017 to 11.10.2017 has been rejected in an illegal and arbitrary manner and further to release the salary of the petitioner for the aforesaid period. Another prayer has been made seeking interest on the delayed payment of salary, pension and other pensionary benefits in view of the law laid down by the judgment of the Full Bench of this Court passed in ***"<u>A.S. Randhawa Vs. State of Punjab and others</u>", 1997(3) SCT 468***.

Learned counsel for the petitioner has submitted that the petitioner was to be superannuated after attaining the age of 58 years on 31.07.2017 and at that point of time, there was a scheme of the State Government prevalent to seek option for extension for one year and he had preferred an extention for one year and in this way, he continued to serve to the post of Head Master. However, vide Annexure P-2 dated 06.09.2017, he had written to the District Education Officer because of his family circumstances, he does not want to continue on the extended period and he wishes to withdraw his option w.e.f. 01.10.2017. Thereafter, vide Annexure P-3 dated 27.09.2017, his request was accepted and his extension was terminated w.e.f. 01.10.2017. He submitted that however, the petitioner still worked to the post of Head Master till 12.10.2017 and he was relieved only on that date as per his noting given in Annexure P-4, and therefore, for the time he had served, he may be granted the salary.

So far as the other prayer of the petitioner is concerned, he submitted that after the aforesaid termination of his extended period the file for his pension was sent to the Accounts Department on 08.11.2017, which is so reflected from the short reply filed by the Accountant General, Punjab-Respondent No.5 and the pension payment order along with the commutation of pension was sent to the Government on 02.01.2018 without any delay but thereafter the amount pertaining to GPF, Gratuity and Earned Leave have been paid to him on 23.04.2018 as per the affidavit filed by the State. He further submitted that once the pension documents have been received by the State there was no reason for delay in payment for further period of three months, and therefore, he would be entitled for interest at least for a period of three months for delayed payments in view of the judgment passed by the Full Bench of this Court in ***A.S. Randhawa's case (supra)***.

On the other hand, Ms. Lavanya Paul, learned DAG, Punjab has submitted that so far as the first issue with regard to working on the post of Head Master is concerned, in fact it was on the request of the petitioner himself that his period be not extended after 01.10.2017 that his request was accepted well before time on 27.09.2017 vide Annexure P-3 and the petitioner has not actually worked after 01.10.2017 and even otherwise also the noting which has been referred to by the petitioner vide Annexure P-4 is only noting given by the petitioner himself that he got relieved on 12.10.2017. She further submitted that the petitioner has neither worked on that post nor he could have continued after the passing of the orders by the competent authority on 27.09.2017 and the petitioner has not worked on the post on the request or requisition of the State. She also submitted that so far as the second issue is concerned, it is correct that the State has received the pension payment orders in January, 2018 but disbursement has been made on 23.04.2018 and the said time was within the reasonable time, therefore, the petitioner is not entitled for the interest.

I have heard the learned counsel for the parties.

So far as the first issue with regard to seeking salary for a period of 10 days w.e.f. 01.10.2017 to 11.10.2017 is concerned, a perusal of Annexure P-3 would show that the petitioner himself had requested that his extension be made effective only till 01.10.2017 because of his family circumstances and vide Annexure P-3 an order was passed by the Director of Education Department on 27.09.2017 which was well before 01.10.2017, and therefore, the petitioner was not competent to have worked on the aforesaid post. The reference made to Annexure P-4 which is a noting given by the petitioner would be of no consequence, once he was no longer in service w.e.f. 01.10.2017. Therefore, the first prayer made by the petitioner is totally misconceived and devoid of merit, and therefore, no relief can be granted in this regard.

So far as the second prayer made by the petitioner is concerned, it is an admitted position as per the reply filed by the Accountant General that relevant documents were sent to the State Government on 02.01.2018 but the GPF, Gratuity and Earned Leave has been paid only on 23.04.2018 even as per Para 6 of the reply filed by the State. Therefore, it appears that there has been a delay of three months in disbursement of the aforesaid amount to the petitioner. The Full Bench of this Court in ***A.S. Randhawa's case (supra)*** had discussed this issue with regard to delay in disbursing the pensionary benefits and vide Para 8 of the aforesaid judgment it was so observed that normally it should not exceed 2 months from the date of retirement. No justification has come forward from the State as to why there was a delay of three months except the arguments raised by the learned State counsel that normally it should be given within 6 months from the date of retirement. This Court is of the view that the petitioner is entitled for grant of interest for the aforesaid period of three months only. Consequently, the respondent/State is directed to pay interest @ 6% to the petitioner on GPF, Gratuity and Earned Leave for a period of three months from 08.01.2018 to 23.04.2018 i.e. the time of disbursement.

The present writ petition is accordingly partly allowed. The interest shall be paid to the petitioner within a period of three months from today.

10.01.2023 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

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