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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23241-2021(O&M)
Date of Decision: 21.04.2023

Nathanial

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *Certiorari* for quashing the impugned order dated 22.05.2019 (Annexure P-6) vide which the claim of the petitioner for grant of interest on the delayed payment of retiral benefits has been rejected by the respondents.

2. Mr. Vipin Mahajan, Advocate appearing on behalf of the petitioner submitted that the petitioner had retired as Superintendent on 31.12.2014 after the age of superannuation and attaining the age of 58 years and thereafter a period of two years extension was granted to him and ultimately he retired on 31.12.2016. He submitted that all the pension papers of the petitioner were submitted to the respective departments well before retirement and after the retirement the pension and pensionary benefits have

not been granted to the petitioner in time and there was no justification for any delay in the disbursement of the same. He submitted that as per the reply filed by the State in para No.3, the respective dates of payments have been given pertaining to gratuity, leave encashment, GPF and GIS. He submitted that the delay was not because of the fault of the petitioner but it was because of the procedural delay at the end of the respondent-department due to the departmental communication between the administrative department and the treasury. He further referred to impugned order Annexure P-6 by which the Deputy Manager who passed the order himself had stated in the concluding part of the order that the delay has been on the account of official procedure which is bound to happen in completing all the official procedure. He further referred to para No.2 of the aforesaid impugned order where it has been categorically stated that the petitioner had submitted the pension papers on 03.08.2016 which was much before the date of retirement and even the Accountant General, Punjab had granted approval on 16.09.2016 which was also received by the office of the Administrative Department on 26.09.2016 and once the entire procedure itself with regard to sanctions and approvals was completed prior to the retirement of the petitioner, then there was no occasion for the respondent-department to have caused delay in the disbursement of the amount. He submitted that the only reason which has come forth in the order and the reply was that the treasury office could not release the amount. He submitted that the treasury etc. is only a wing of the State of Punjab and the inter-departmental or procedural delay cannot become a ground for withholding the retiral benefits of an employee and

therefore he was entitled for interest in the light of a Full Bench judgment of this Court in *A.S. Randhawa Versus State of Punjab and others, 1997(3) SCT 468 (F.B.)*.

3. On the other hand, Ms. Guramrit Kaur, learned DAG, Punjab while referring to the impugned order and the reply filed by the State submitted that after the retirement of the petitioner, the payment has been made to the petitioner which has been so given in the tabulated form in para No.3 of the reply and has submitted that due to routine lengthy procedure the amount has been delayed which was not intentional and since it was not intentional, the petitioner is not entitled for the grant of interest.

4. I have heard the learned counsel for the parties.

5. The petitioner had retired on 31.12.2016 after availing of two years of extension. As per the impugned order Annexure P-6, all the pension papers and even sanction and approval was made prior to his retirement. A perusal of the impugned order and the reply filed by the State would show that no legal justification has come forth as to why there was a delay except due to procedural delay by the department and also due to inter-department communication. The right to receive retiral benefits is a Constitutional Right under Article 300-A of the Constitution of India and it is a settled law that the retiral benefits are not the bounty of the State and it has to be disbursed immediately after the retirement of an employee. In the present case, there is no justification coming forth as to why there was a delay apart from the procedural delay which has been so mentioned in the reply and in the impugned order. Therefore the petitioner is entitled for the grant of interest @ 6% per annum from the date of retirement till the date of

actual disbursement on different components which have been so provided in the tabulated form in para No.3 of the reply filed by the State.

6. Consequently, the present petition is allowed. The respondents are directed to calculate the interest @ 6% per annum from the date of retirement till the date of disbursement and to pay the petitioner within a period of four months from today. In case the aforesaid amount is not paid within the aforesaid period of four months, then the petitioner shall be entitled for interest @ 9% per annum instead of 6% per annum.

21.04.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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