

CWP-11702-2021

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-11702-2021
Date of Decision: 23.03.2023

Rajnesh Kumar
..... Petitioner

Versus

State of Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Puneet Kumar Bansal, Advocate,
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab.

Mr. Aditya Pratap Duggal, Advocate,
for respondent No.3.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to pay interest as per the provisions of the Provident Fund Act on delayed deposit of amount of provident fund (both employer and employee share) in his account with a further prayer for directing the respondents to release Gratuity, Leave Encashment, Provident Fund and all other benefits to the petitioner along with interest @ 18% per annum 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.

Learned counsel for the petitioner has submitted that there are

three grievances raised in the present petition.

Firstly, the petitioner had retired on 30.09.2020 but his retiral benefits have not been paid to him and so far as this grievance is concerned, during the pendency of the present petition, the benefits have been paid to the petitioner as per the reply filed by the Municipal Council and therefore, the aforesaid grievance does not survive. Secondly, the payments have been made with a delay and therefore, he is entitled for the grant of interest on the delayed payments. Thirdly, respondent-Council had been defaulting in depositing the GPF in the concerned Department and consequently he has lost the interest component on the same amount. He further submitted that so far as the third grievance is concerned, since the specific stand taken by the respondent-Council in the reply that they have been regularly depositing the GPF to the concerned Department and there is a disputed question of fact with regard to the same and he may be permitted to move a separate representation to the concerned authority for the redressal of his grievance and therefore, now at this stage, the only grievance which survives for consideration is with regard to grant of interest.

On the other hand, Mr. Aditya Pratap Duggal, learned counsel for the respondent No.3-Council submitted that during the pendency of the present petition, the retiral benefits have been paid to the petitioner, regarding which the dates have been so mentioned in the detailed written statement filed by the Municipal Council and along with that Annexure R-3/2 has been attached which shows the details of the date. He further submitted that the petitioner although retired on 30.09.2020 but he was granted promotion to the post of Junior Engineer in the month of December,

2020 w.e.f 01.01.2020 and since a decision was taken with regard to retrospective promotion of the petitioner in the month of December, 2020, the delay was caused.

I have heard the learned counsel for the parties.

So far as the grievance of the petitioner pertaining to allegation of default in depositing the GPF by the respondent-Council or the GPF Authority is concerned, the learned counsel for the petitioner has submitted that at this stage, he does not wish to press the same and he may be permitted to give a detailed representation pertaining to the same to the authorities. The submissions made by the learned counsel for the petitioner is justified and accepted and liberty is granted to the petitioner to move a representation with regard to the aforesaid grievance before the authorities in accordance with law.

The only issue which requires to be considered at this stage in the present petition is pertaining to prayer of the petitioner for grant of interest on the delayed payment. As per the learned counsel for the parties, the petitioner was granted promotion in the month of December, 2020 retrospectively w.e.f. 01.01.2020 and therefore, in this way, the retiral benefits could not have been paid to the petitioner prior to that. Therefore, considering the aforesaid submission, the petitioner was certainly entitled for the grant of interest at least from January, 2021. The table which has been given in Annexure R-3/2 filed by the respondent-Council would show that so far as the head of Leave Encashment is concerned, the same was paid to the petitioner in three installments. First installment was paid on 30.03.2021, second was paid on 31.03.2021 and third one was paid on 01.07.2021. So far

as the installments of 30.03.2021 and 31.03.2021 are concerned, the same was not with any delay. So far as the third installment i.e. paid on 01.07.2021 is concerned, there was a delay of about six months for which the petitioner will be entitled for interest on the delayed payment of Leave Encashment which was paid to the petitioner on 01.07.2021 in view of the law laid down by the Full Bench of this Court in **“A.S. Randhawa Vs. State of Punjab and others”, 1997(3) SCT 468.**

So far as the component of Gratuity is concerned, the petitioner was paid Gratuity in three installments i.e. on 01.07.2021, 25.08.2021 and 13.09.2021. All the three installments were paid to the petitioner after a gap of 6-8 months for which also there is no justification put forth by the Municipal Council and therefore, the petitioner is entitled for the interest with regard to the aforesaid component of all the three installments in view of the ***A.S. Randhawa (Supra)***. So far as the payment of Provident Fund is concerned, the same was paid to the petitioner on 30.09.2020, 25.11.2020 and 27.01.2021 and therefore, there was no delay with regard to the same.

In view of the above, the present petition is partly allowed. The petitioner shall be entitled for the grant of interest @ 6% per annum on the following components:-

I.	Leave Encashment	For the amount which was paid to the petitioner on 01.07.2021.
II.	Gratuity	For whole amount pertaining to the commencing with the respective dates

The respondent-Municipal Council is directed to calculate the aforesaid interest @6% per annum and pay to the petitioner within a period of six 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.

23.03.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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