

230

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

**CWP-16062-2021
Date of Decision: 20.01.2023**

Veena Rani

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Harbans Sharma, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India praying for a writ, direction or order especially a writ in the nature of mandamus directing the respondents to pay interest on delayed payment of retiral benefits of the petitioner including the Gratuity and Leave Encashment @ 18% from the date of accrual of retiral benefits till the actual date of payment.

Learned counsel for the petitioner has submitted that the petitioner retired as Senior Assistant on 31.03.2020 from the respondent-Department and she was infact on extension in view of the policy of the Government. However, she was paid her retiral benefits after a lapse of

time. The time frame-work pertaining to the date of retirement and the date of disbursement has been tabulated in Para No.8 of the writ petition. He further submitted that when the petitioner retired on 31.03.2020, there was no justification from the State as to why there was a delay in payment of retiral benefits since these accrued on the date of her retirement and the delay has not been denied by the State in the reply filed by them nor there is any justification put forward by the State except that initially there was a delay because of Covid-19 Pandemic and so far as the delay in giving the regular pension is concerned, there was a correction of name in the P.P.O. which was earlier written by the State and for that purpose it was not the fault of the petitioner, and therefore, she is entitled for the grant of interest on the delayed payment in view of the judgment of the Full Bench of this Court passed in “A.S. Randhawa Vs. State of Punjab and others”, 1997(3) SCT 468. He further submitted that so far as the regular pension is concerned, the same was started on 10.03.2021, which was after the delay of 11 months. However, in the interregnum period after her retirement, she was given provisional pension only for two months i.e. for the month of April and May but for the remaining months not even provisional pension has been paid to her.

On the other hand, Ms. Lavanya Paul, learned DAG, Punjab while referring to the reply filed by the State has submitted that there is no dispute that the retiral benefits of the petitioner has been paid with delay. While dealing with the aforesaid three components of the retiral benefits, she submitted that so far as the Leave Encashment is concerned, the same was paid to the petitioner on 19.09.2020 even as per the table given by the

petitioner and there was a delay of 6 months and 9 days. She further submitted that this delay was because in the last week of March, 2020, there was a complete lockdown in the entire country and thereafter, even curfew was also imposed for a long period of time, and thereafter, there was a restrictive functioning of the State Government Offices and therefore, the aforesaid delay in disbursement of Leave Encashment for 6 months and 9 days was beyond the control of the State Authority and therefore, it cannot be said that the delay was due to the fault of the State. She also submitted that so far as the delay of 11 months in Gratuity and regular pension is concerned, the same was caused because in the initial P.P. Order which was issued by the State to the Accountant General, there was a mistake in the name of the petitioner which was thereafter got rectified and in the process the delay was caused but the petitioner was paid the provisional pension in the meantime for a period of 2 months.

I have heard the learned counsel for the parties.

The petitioner retired on 31.03.2020. So far as the component of Leave Encashment is concerned, it is not in dispute that the same was paid after a period of 6 months and 9 days because the entire country faced lockdown, curfews and restrictive functioning for the following months starting from March, 2020 and therefore, so far as the delay of 6 months in disbursement of Leave Encashment is concerned, the same cannot be held to be unjustified and therefore, the argument raised by the learned State counsel that it was beyond the control of the State Government is just and reasonable and therefore, the petitioner is not entitled for any interest on the Leave Encashment.

However, so far as the other two components i.e. Gratuity and other regular pension are concerned, there was a delay of 11 months and 28 days in disbursement of Gratuity and 11 months in starting of regular pension. Before that for only two months the provisional pension was paid to the petitioner. The reasoning given by the learned State counsel relying upon the affidavit filed by the State was that it was because of the P.P. order that the name of the petitioner was incorrectly mentioned which was thereafter rectified and objection raised by the office of the Accountant General was removed. This Court is of the view that the aforesaid explanation cannot be accepted because it was not the fault of the petitioner that some mistake has occurred during the course of communication between the State and the Accountant General. Therefore, this Court is of the view that the delay of 11 months and 28 days in disbursement of Gratuity and 11 months in disbursement of regular pension to the petitioner, is not justified.

In view of the above and also law laid down by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, the present petition is partly allowed. The petitioner shall be entitled for interest @ 6% per annum on the delayed payment of Gratuity and regular pension from the date of its accrual till the date of disbursement. The State shall calculate the aforesaid interest and pay to the petitioner within a period of three months from today.

The present writ petition is, accordingly, partly allowed.

20.01.2023

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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