IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 **CWP-17243 of 2015**
Date of Decision:04.05.2023

Gurbag Singh

....Petitioner

Versus

The Punjab State Power Corporation Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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Present: Mr. J. S. Jaidka, Advocate,
for the petitioner.

Mr. J.P.S. Sandhu, Advocate,
for the respondents-PSPCL.

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

1. The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of *mandamus* directing the respondents to pay the retiral benefits of the petitioner alongwith interest.

2. Learned counsel for the petitioner submitted that the petitioner retired as a JE-1 from the respondent-Corporation on 31.12.1999 and during the pendency of present petition, all the retiral benefits have been paid to the petitioner in the year 2022. He submitted that now the scope of the present petition is limited to the extent of claim for interest on the delayed payment since the delay caused by the respondent-Corporation was without any legal justification and therefore the petitioner is entitled for the grant of interest in view of the law laid down by a Full Bench judgment of this Court in **<u>A.S. Randhawa verus State of Punjab and</u>**

others 1997(3) SCT 468.

3. On the other hand, Mr. J.P.S. Sandhu, learned counsel appearing on behalf of the respondent-Corporation submitted that it is a case where although the petitioner had retired on 31.12.1999 but the reply filed by the respondent-Corporation would show that at the time of the retirement, he did not submit the accounts of articles drawn by him and he was asked to give an explanation about the outstanding amount. The Assistant Engineer (Operation) Sub-Division, PSEB Lubaniawali vide its letter bearing No.29 dated 11.01.2000 directed the petitioner to render the account of the articles worth Rs.3,28,721/- against four works drawn from the store within one week but the petitioner did not render the account. The petitioner also did not deposit an amount of Rs.12,321/- and the same is still outstanding against the petitioner as per the reply. He further submitted that after his retirement, the petitioner did not complete his pension papers and therefore the Senior Executive Engineer (Op.) Division, PSEB Muktsar rather directed the petitioner to complete and sign the pension papers in all respects but he did not visit the office and consequently even a notice was published in a newspaper on 01.05.2000 directing the petitioner to complete and sign the pension papers and thereafter even permission was sought from the Secretary, Pension Department, Patiala for consigning the pension case of the petitioner which was thereafter consigned on 13.06.2000. He further submitted that it was only in the year 2007 when he gave the applications on 18.10.2007 and 07.05.2009 for the grant of provisional pension that the process for the grant of provisional pension started and thereafter the provisional pension to the extent of 60% was sanctioned to the petitioner on 06.06.2016 vide Annexure R-3/1 and he was paid provisional

pension. He submitted that now all the benefits have already been paid to the petitioner and the petitioner is not entitled for the grant of interest on the delayed payment because the delay was not attributable to the respondent-Corporation but it was attributable to the petitioner himself. He further submitted that the petitioner was absent from duty for four years and did not even turn up and gave any information to the department with regard to the articles and therefore the delay if any was attributable to the petitioner himself.

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

5. The petitioner retired on 31.12.1999 as JE-1. During the pendency of the present petition, all the retiral benefits have been paid to the petitioner and therefore the subject matter of the present case only pertains to the claim for grant of interest. As per learned counsel for the petitioner, the delay was attributable to the respondent-Corporation because immediately at the time of retirement, he was entitled for all the benefits because there was neither any disciplinary proceeding nor any other judicial proceeding or any other proceedings whatsoever against the petitioner and that the mere fact that a notice was issued to the petitioner for deposit of an amount does not come within the scope of Rule 2.2 Vol.II of the Punjab Civil Services Rules particularly in view of the fact that the expression 'Criminal Proceedings' and 'Judicial Proceedings' are specifically defined under the aforesaid Rules. Learned counsel for the petitioner also submitted that once the provisional pension was sanctioned by the respondent-Corporation itself in the year 2016 then at least the petitioner was entitled for the grant of interest from the aforesaid date. However, the stand of the respondent-Corporation was that it was because of the fault of the petitioner that he did not submit his pension papers in

time and some amount was also recoverable from him and he remained absent for more than four years that the pension case could not be processed.

6. It is a settled law that the pension and pensionary benefits are not the bounty of the State. Whenever an employee retires, it is the bounden duty of the employer to consider and process for grant of pension and pensionary benefits to its employees. The same can be withheld or forfeited only in accordance with law and in that case a definite procedure is required to be adopted under the Statutory Rules. However, in the present case, there was neither any disciplinary proceeding nor any judicial proceeding nor any criminal proceeding against the petitioner and therefore this Court is of the view that in the absence of any justification or procedure adopted by the respondent-Corporation, withholding of the retiral benefits of the petitioner was without the authority of law. All the benefits have since been paid to the petitioner and the only question is pertaining to the grant of interest to the petitioner. Even assumingly that the petitioner did not submit his pension papers after his retirement even then his pension case was processed after the year 2007 as per the reply filed by the State when the petitioner gave application for grant of provisional pension. Thereafter the provisional pension was sanctioned on 06.06.2016 vide Annexure R-3/1 and thereafter the entire benefits were paid to the petitioner by the respondent-Corporation itself. Therefore, this Court is of the view that the petitioner shall be entitled for the grant of interest with effect from 06.06.2016 on all the retiral benefits which have now been paid to the petitioner alongwith interest @6% per annum. Consequently, the present petition is partly allowed.

7. The respondent-Corporation is directed to calculate the interest amount as aforesaid @6% per annum and pay 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 future rate of interest @9% per annum instead of 6% per annum.

8. There shall be no order as to costs.

(JASGURPREET SINGH PURI)
JUDGE

May 04, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No