235

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

CWP-1102-2018
Date of Decision: 20.04.2023

Anju Bala

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mohit Garg, Advocate,
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab.

Mr. M.K. Dogra, Addl. Standing Counsel,
for respondent No.4-U.T., Chandigarh.

****

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

1. The present is a petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to grant interest on the delayed payments of retiral benefits which accrued to the petitioner from the date of her retirement.

2. Learned counsel for the petitioner has submitted that the petitioner was working as Teacher and was an employee of the State of Punjab in the Department of Education, but during her service she was sent on deputation to U.T. Chandigarh from where she retired on 30.04.2016 from respondent No.4-School. He further submitted that prior to her retirement, all the requisite formalities pertaining to submission of forms etc. were duly complied with by the petitioner well in time, and thereafter, the

pension case of the petitioner was also processed by the respondents/State but there has been a delay in the payment of the retiral benefits to the petitioner. He further submitted that the pension and commutation of pension were paid on 03.04.2017, which were after about one year and Gratuity and Leave encashment were paid to the petitioner in November, 2017 which was after about 1½ years and there is no justification with regard to the same. He referred to the judgment of Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, to contend that the pension and pensionary benefits are immediately payable to a person, who has retired, unless there is a legal impediment for not giving the same. He further submitted that so far as the petitioner is concerned, there was neither any disciplinary proceedings nor any judicial proceedings or any other kind of legal impediment for not paying the retiral benefits at the time of retirement of the petitioner and particular in view of the fact that all the requisite documents were submitted by the petitioner well before time and in accordance with the procedure and has submitted that therefore, the petitioner may be granted interest on the delayed payment from the date of its accrual i.e. from the date of retirement till the date of actual disbursement.

3. On the other hand, Mr. Sandeep Chopra, learned DAG, Punjab while referring to the reply filed by respondent Nos.1 & 2, submitted that the respondent-Department had although received the entire documents pertaining to the pension prior to the retirement of the petitioner, but when it was sent to the Accountant General, an objection was raised and thereafter, after removing the objections, it was again sent to the Accountant General

and thereafter, a clarification was sought from the Government Model Senior Secondary School, Sector 26, Timber Market, Chandigarh-respondent No.4 and ultimately it took time for the entire communications because of the objections being raised by the Accountant General, and therefore, it caused delay which was not an intentional delay, and therefore, no interest is payable to the petitioner.

4. Mr. M.K. Dogra, learned Standing Counsel appearing on behalf of respondent No.4 which is the School of UT Chandigarh, submitted that when the file was sent to the School, the objections were removed and duly sent to the State Government back, and therefore, so far as the U.T. Chandigarh is concerned, neither any relief has been claimed against U.T. Chandigarh nor any role is attributable to respondent No.4 with regard to the delay, if any, caused in releasing the payment of retiral benefits of the petitioner.

5. I have heard the learned counsels for the parties.

6. The petitioner was an employee of the State of Punjab in the Department of Education. She retired on 30.04.2016 while she was already on deputation to U.T. Chandigarh prior to her retirement and she retired from respondent No.4-School.

7. All the pensionary and retiral benefits were to be paid by State of Punjab. A perusal of the reply which has been filed by the Deputy Controller Finance and Account, Punjab on behalf of the respondent Nos.1 & 2, would show that as per Para 2, it has been so stated that the pension case of the petitioner was sent to the Accountant General, Punjab six months prior to her retirement and as per the Rules, the pension case of an employee

has to be sent to the Accountant General six months prior to the retirement. The case of the present petitioner was received by the office of respondent No.2 on 08.01.2016 which was about 3½ months before her retirement from the School of the petitioner at Chandigarh. Thereafter, the case of the petitioner was sent to the Accountant General, Punjab on 10.02.2016. The Accountant General, Punjab-respondent No.3 raised some objections regarding some ambiguities in the pension case and it was again sent back to respondent No.2 on 16.03.2016 for rectification which was later sent back to the school of the petitioner on 29.03.2016 to remove the objections raised by the Accountant General, Punjab and after the removal of the objections the pension case was received in the respondent No.2 office on 15.07.2016 and the same was sent to the Accountant General, Punjab on 28.07.2016, again respondent No.3-Accountant General, Punjab raised some objections in the case and the same was received by respondent No.2 office on 06.09.2016 and it was forwarded to DPI (U.T.) on 16.09.2016. After removing of the objections, respondent No.2 sent the case to respondent No.3 on 16.12.2016 and finally the Gratuity was cleared by respondent No.3 on 27.01.2017, and thereafter, sanction was obtained and payment was made to the petitioner. It has been further stated by respondents Nos.1 & 2-State of Punjab that administrative delay was caused due to negligent attitude of the School Authorities i.e. respondent No.4-Government Senior Secondary School (T.M.), Sector 26, Chandigarh and District Treasury Office, Punjab, Chandigarh.

8. Respondent No.3-Accountant General, Punjab has also filed a separate short reply and a perusal of Para 2 of the reply would show that it

has been so stated by Accountant General that the pension case of the petitioner was received from the Department of the petitioner i.e. respondent No.2 vide letter dated 10.01.2017 and the Office of the Accountant General finalized the same. It has been further stated in Para No.3 that the matter regarding payment of interest on the delayed payments entirely pertains to the Department of the petitioner i.e. respondent No.2.

9. A co-joint reading of the replies filed by respondents No.1 & 2 on the one hand and respondent No.3 on the other hand are totally inconsistent with each other on facts. Respondents No.1 & 2 have given details of dates after retirement of the petitioner till disbursement as aforesaid, which started at the time of the retirement of the petitioner and it has been so stated repeatedly that it was sent to the Accountant General Department for a number of times, but when the Accountant General filed the reply before this Court, it is so stated that they received it on 10.01.2017 which is totally contrary to what has been so stated by respondents No.1 & 2. Not only this, vide Para No.3, Accountant General has stated that the matter regarding payment of interest on delayed payment entirely pertains to the Department of the petitioner i.e. respondent No.2, and therefore, it appears that the Accountant General has only tried to abdicate his own responsibilities by filing a reply which is vague and contrary to what respondents No.1 & 2 have filed. When a reply is to be filed by the Accountant General, it has to be clear and not vague, it cannot abdicate its responsibilities in such manner.

10. More interestingly when added respondent No.4 which is a School which comes under U.T. Chandigarh filed their reply which only

repeatedly states that no relief is claimed against them and they have only been impleaded later on and that retirement benefits have already paid to the petitioner and a speaking order has been passed by the Government of Punjab and nothing is attributable to them. Whereas a perusal of the reply filed by respondents No.1 & 2 would show that the objections were sent to the U.T. Chandigarh two-three times and after removal of the same, the case of the pension of the petitioner was processed and it was paid to the petitioner after a delay.

11. Therefore, all the three replies are not in consonance with each other and on facts they are contradictory with each other.

12. An employee who retires from service is entitled for grant of pension and pensionary benefits on his retirement. Pension and pensionary benefits can be withheld only in due process of law and cannot be withheld without the authority of law. The Right of pension and pensionary benefits is protected as Constitutional Right under Article 300-A of the Constitution of India. The delay in procedural communication *inter se* between the Departments becomes no grounds for denial or withholding of pension and pensionary benefits or interest thereof to an employee. The contradictory stands which have been taken by the respective respondents would also fortify the case of the petitioner wherein she is seeking interest of the delayed payments. There is no fault attributable to the petitioner even as per arguments raised by the respective counsels for the respondents or in all the three replies which have been filed by all the three respondents. What was the nature of the objections etc. is also not so stated in the reply. Therefore, it is clear from the perusal of the reply filed by all the three respondents that

there is no fault of the petitioner and she had submitted her pension papers about 3½ months prior to her retirement.

13. In view of the aforesaid facts and circumstances of the present case, the present petition is allowed. The petitioner shall be entitled for grant of interest @ 6% per annum from the date of accrual of the pension and pensionary benefits i.e. on the date of her retirement till the date of disbursement on different heads/components. The aforesaid amount be calculated by the respondents No.1 & 2 and paid to the petitioner within a period of four months from today. In case, the aforesaid amount is not paid to the petitioner within a period of four months from today, then the same shall carry a future rate of interest @ 9% per annum instead of 6% per annum.

14. Since in the reply and in the arguments raised by learned State counsel, the State of Punjab has shifted the responsibility to the respondent No.4-School and to the Treasury Office, it is directed that the aforesaid interest shall be paid by the State of Punjab at the first instance and liberty is granted to the State of Punjab to claim the same from any other person or authority including respondent No.4, but strictly in accordance with law.

15. Considering the aforesaid circumstances, the petitioner shall also be entitled for costs which are assessed at Rs.10,000/- which shall also be paid to the petitioner by the State of Punjab only within the aforesaid period of four months.

20.04.2023 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

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