(214) 2023:PHHC:070639

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13251 of 2017
Date of decision : 15.05.2023

Baldev Singh ....Petitioner

Versus

The Pepsu Road Transport Corporation, Nabha Road,
Patiala & others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rai Singh Chauhan, Advocate with
Mr. Rohit Sapehiya, Advocate for the petitioner.

Mr. Harsh Chopra, Advocate for the respondents.

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PANKAJ JAIN, J. (ORAL)

By way of this writ petition filed under Article 226/227 of the Constitution of India, petitioner prays for issuance of directions to the respondents to release the amount of interest on the delayed payment of retiral benefits @ 8% per annum.

2. Learned counsel for the petitioner submits that so far as the outstanding payments to the petitioner on account of overtime w.e.f. 2005 to 2009 as well as owing to ACP benefits are concerned, the same stand released and now the issue only relates to payment of interest on the delayed payment of terminal benefits. The petitioner retired attaining the age of superannuation on 31.12.2011 whereas terminal benefits could be released only in November 2013.

3. Mr. Chopra, learned counsel representing the respondents in not in a position to dispute the aforesaid factual assertion borne from the record itself. However, he submits that owing to the fragile financial

condition of the Corporation, the payment was delayed.

4. Full Bench of this Court in the case of '***A.S. Randhawa Vs. State of Punjab'*** ***1997(3) SCT 468***, held as under:-

> "Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of the money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."

5. Thus, the petitioner would be entitled for interest on the delayed payments. So far as the plea raised by counsel for the respondent with respect to weak financial position of the Corporation is concerned, the same too has now dealt by Division Bench of this Court in the case of '***Ram Karan VS. Managing Director, Pepsu Road Transport Corporation and another'*** ***2005 (3) PLR 580,*** holding as under:-

> "8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent- Corporation. In a welfare

State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of ***Chameli Singh v. State of U.P. 1996(2) SCC 549*** has held as under:-

"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society. xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a 4 of 7 democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being....."

A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, ***Municipal Council, Ratlam, (1980) 4 S.C.C. 163, B.L Wadhera v. Union of India, All India Imam Organisation and Ors. v. Union of India and Ors., Kapila Hingorani v. State of Bihar, 2003 (3) R.S.J. 42***. As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:-

"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created." We are surprised at the insensitive attitude adopted by the

> respondent-Corporation in respect of its own employees/pensioners. An employer is not only to look forward to the economic growth but also to look after the welfare of its employees including health, social security and other human needs. It is the obligation of the State or its functionaries to work within the scope of their authority to combat and overcome the miseries of its employees. The Courts in such a situation are obliged to issue necessary directions to mitigate the extreme hardship of the employees involving violation of their human rights by the State or its functionaries like the respondent Corporation, which are fully controlled by it."

6. Keeping in view the aforesaid settled proposition of law and also the fact that the petitioner's case is squarely falls within the four corners of the settled law, the present writ petition is allowed. The petitioner is held entitled for the interest @ 9% per annum commencing from the period of 01.06.2012 till the actual date of realization. Necessary consequential benefits be released in favour of the petitioner within a period of 08 weeks from the date of receipt of a certified copy of this order.

7. However, it is made clear that in case the payment is not released within the stipulated time, the same shall bear interest @ 18% and the same shall be recovered from the personal pay of Managing Director of Pepsu Road Transport Corporation, Nabha Road, Patiala.

May 15, 2023 **(Pankaj Jain)**
Anjal **Judge**

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