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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18759-2019(O&M)
Date of Decision: 22.02.2023

SURJEET KAUR

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Padamkant Dwivedi, Advocate, for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

Mr. Akhil Dadwal, Advocate, for
Mr. K.S. Dadwal, Advocate, for respondent Nos. 2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

CM-18465-CWP-2022

The present application has been filed for placing on record the reply on behalf of respondents No. 2 and 3.

For the reasons mentioned in the application, the same is allowed and the accompanied reply filed on behalf of respondents No.2 and 3 is taken on record.

Main case

The present petition has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of *Certiorari* for quashing of impugned order dated 13.03.2019 (Annexure P-7) to the extent that

interest on delayed payment of retiral benefits has been declined to the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was appointed as Bal Sevika in the respondent-Board in the year 1979 and thereafter she was promoted as Supervisor and thereafter she retired from the aforesaid post on 28.04.2017. The petitioner was entitled for the grant of retiral benefits of gratuity, leave encashment and GPF etc but the respondent-Board failed to pay the aforesaid benefits and therefore the petitioner was constrained to file a writ petition before this Court bearing CWP No.15179 of 2018 which was disposed by this Court on 02.07.2018 vide Annexure P-5 whereby a direction was issued to the respondents to look into the grievances and to take a conscious decision within a period of two months from the date of receipt of copy of the order and in case there is no impediment, then to release the benefits accrued to the petitioner on her retirement within next 45 days. In addition to the above, the respondents were also directed to consider the case of the petitioner for grant of interest on delayed payment in view of a Full Bench judgment of this Court in ***A.S. Randhawa Versus State of Punjab and others, 1997(3) SCT 468 (F.B.)*** and also the Government instructions. Thereafter, the petitioner filed a COCP No.321 of 2019 but during the pendency of the aforesaid contempt petition the impugned order Annexure P-7 was passed and the retiral benefits were released to the petitioner and therefore, the contempt petition became infructuous. The petitioner has now impugned the aforesaid order Annexure P-7 dated 13.03.2019 whereby the interest on the delayed retiral benefits has been declined to the petitioner. He has relied upon a Full Bench judgment of this Court in ***A.S. Randhawa Versus State of Punjab and others (Supra)***.

On the other hand, Mr. Akhil Dadwal, Advocate appearing on behalf of Mr. K.S. Dadwal, Advocate, for respondent Nos. 2 and 3 has submitted that now the retiral benefits have been paid to the petitioner on 22.03.2019 and the reason for delay which has come in the order was that firstly the respondent-Board did not have any funds and secondly for a number of time the case was sent to the CDPO which is the Administrative Department of the Board and due to the same reason, there was a delay which was not attributed to the Board and therefore the petitioner is not entitled for interest. He while referring to the reply has submitted that the delay has been caused because of the petitioner as some of the service record of the petitioner was not found to be in order.

I have heard the learned counsel for the parties.

The petitioner retired as Supervisor on 28.04.2017 from the respondent-Board and thereafter she had filed a writ petition for grant of retiral benefits which was disposed of by this Court. Thereafter she was constrained to file contempt petition before this Court but during the pendency of the contempt petition the retiral benefits were paid to her but interest was declined. A perusal of the impugned order and also the reply which has been filed by the respondent-Board would show that there is no justifiable reason as to why there was a delay. In the impugned order two reasons have been mentioned. Firstly that the Board did not have funds and secondly inter-departmental communications. Both the aforesaid grounds are not justifiable ground for denial of interest to the petitioner because it is not fault of the petitioner. So far as the reason mentioned in the reply filed by the Board that the papers submitted by the petitioner were not in order is also not a justifiable ground because even a bare perusal of

para No.3 of the reply would show that it is totally vague and nothing specific has been mentioned and therefore the petitioner cannot be faulted in this regard.

In view of the aforesaid facts and circumstances whereby it can be held that it was not because of the fault of the petitioner that there has been delay in disbursement of the retiral benefits but on the other hand, rather the petitioner was constrained to file a petition before this Court and the present is a third round of litigation filed by the petitioner who is a lady.

Consequently, the present petition is allowed. The petitioner is entitled for the grant of interest @ 6% per annum on the delayed payment from the date it has accrued till the date of its disbursement to the petitioner. The respondent-Board is directed to calculate the same and to pay the petitioner within a period of four months from today. In case the aforesaid interest amount is not paid within a period of four months, then the petitioner shall be entitled for a future rate of interest @ 9% instead of 6%.

Since the petitioner was constrained to file three petitions before this Court for getting her retiral benefits and interest thereon, the petitioner is also entitled for costs which are assessed as Rs. 10,000/-. The costs have also to be paid within a period of four months from today.

22.02.2023

rakesh

Whether speaking
Whether reportable

**(JASGURPREET SINGH PURI)
JUDGE**

: Yes/No
: Yes/No