

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

(255)

RSA-4836-2019

Date of Decision : March 15, 2023

Bimla Singla

.. Appellant

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Narinder Sharma, Advocate, for the appellant.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present Regular Second Appeal, the challenge is to the judgment and decree of the trial Court dated 25.09.2017 by which, the suit filed by the appellant-plaintiff for the grant of interest on the delayed released of pensionary benefits was dismissed as well as the against the judgment of the lower Appellate Court dated 28.03.2019 by which, the appeal preferred by the appellant against the judgment and decree of the trial Court, was partly allowed with regard to the recovery of Rs.5,797/- as well as redemption of mortgaged property.

Certain facts needs to be mentioned herein for the correct appreciation of the controversy in question.

The appellant-plaintiff who was working as Associate Professor retired on attaining the age of superannuation from Government College for Girls, Patiala on 29.02.2012. After the retirement, her pensionary benefits were released after a delay, detail of which has been given in paragraph 2 of the judgment and decree of the trial Court dated 25.09.2017. The monthly pension was paid on 04.09.2012 along with arrears. Similarly the commuted value of pension was also given to the appellant on 04.09.2012 and the death cum retirement gratuity was paid to her on 11.12.2012. Some of GIS was paid to her on 11.02.2013. General Provident Fund and leave encashment were paid to the appellant on 28.05.2012. The civil suit filed by the appellant-plaintiff was for directing the respondents-State to grant her interest on the delayed release of the pensionary benefits but keeping in view the stand taken by the respondents-State that the appellant had only filled up her pension papers two months prior to her retirement whereas, the same were required to be filled at least six months prior to the date of retirement, the delay in release of pensionary benefits was attributable to the appellant herself, was accepted by the trial Court so as to dismiss the suit filed by the appellant vide judgment and decree dated 25.09.2017.

In an appeal preferred against the judgment and decree of the trial Court dated 25.09.2017, the lower Appellate Court vide judgment and decree dated 28.03.2019 modified the judgment and decree of the trial Court only to allow the refund of Rs.5,797/- along with interest but no interest was granted on the delayed release of the pensionary benefits and the judgment and decree of the trial Court on the said aspect was upheld. Hence, the present Regular Second Appeal.

Learned counsel for the appellant argues that the evidence which has come on record has not been correctly appreciated by the Courts below. The argument has been raised that even if, the pension papers were submitted two months prior to the retirement then also, there cannot be a delay of more than two months in the release of the pensionary benefits.

Learned counsel for the appellant submits that the delay in release of the pensionary benefits has not been explained as to why, more than seven months were taken by the respondents to release the benefits to the appellant after filling up the pension papers so as to release the pensionary benefits, which fact has not been appreciated by the Courts below in accordance with law especially in view of the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, according to which judgment, in case pensionary benefits are not released within a period of two months from the date of the retirement, in case there is no impediment, the employee is entitled for the grant of interest on the payments which have been released after a delay. The relevant paragraph of said judgment is 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 retiree 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 his

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.”

Learned counsel for the respondents has not been able to point out any valid justification which has come on record by way of evidence to show that the delay is bona fide and beyond the control of the respondents. Concededly benefits were released after more than three months of retirement.

Keeping in view the said fact, the judgments and decrees of the Court below are perverse to the law on the issue concerned keeping in view the judgment of the Full Bench of this Court in ***A.S. Randhawa's case (supra)***.

Even otherwise, as per the settled principle of law settled by a Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, if an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

Learned counsel for the respondents has not been able to dispute the fact that the amount which was released to the appellant-plaintiff after a delay, has remained with the Department for its use.

Keeping in view the above, the judgments of the Courts below are set aside being perverse to the settled principle of law keeping in view the conceded facts and circumstances of the present case and are accordingly set aside. The appellant is held entitled for the grant of interest on the delayed release of the pensionary benefits @ 6% per annum on expiry of two months of the retirement i.e. starting from 01.05.2012 onwards till the actual release of the same.

The suit filed by the appellant is allowed in above terms.

March 15, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No