IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237 **CWP-15916 of 2018**
Date of Decision:13.02.2023

Arpinderjit Singh

....Petitioner(s)

Versus

Punjab State Civil Supplies Corporation Ltd. and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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Present: Mr. D.S. Rawat, Advocate,
for petitioner.

Mr. Anil Bansal, Advocate,
for the respondents.

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JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Artilce 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of the impugned order dated 02.10.2014 (Annexure P-3) by which a punishment has been imposed upon the petitioner whereby it has been directed that 1/3rd of the recovery of losses to PUNSUP for total loss of Rs.41,88,149/- be adjusted from the retiral benefits of the petitioner and also Annexure P-6 dated 07.12.2016 passed by the Appellate Authority only to the limited extent that interest has been denied to the petitioner.

Learned counsel for the petitioner submitted that the petitioner retired as Deputy District Manager (Accounts) on 30.06.2008 from the respondent Corporation. After his retirement, a show casue notice was issued to him on 11.07.2011 by the Managing Director stating that the bills which were raised by the Corporation towards FCI were not paid to the PUNSUP in time and the officers are therefore responsible for non-receipt of the amount from the FCI and interest part is calculated on that amount to which the petitioner has been made liable to the extent of 1/3rd of the calculated interest amount. Learned counsel for the petitioner while referring to Annexures P-1 and P-2 has submitted that rather there are instructions issued by the respondent Corporation itself that in such like situation, the officers of the PUNSUP would not be liable for the same and because the interest is to be paid by the FCI. He submitted that the aforesaid punishment order passed by the Managing Director vide Annexure P-3 was challenged by way of an appeal by the petitioner and some other persons which was considered by the Appellate Committee which consisted of a Chairman and two members whereby the order dated 02.10.2014 passed by the Managing Director was set aside/withdrawn but at the same time it was also directed that the amount already recovered from the appellants be refunded to them, but they will be not entitled for the interest on the refunded amount. He submitted that the aforesaid Appellate Committee passed the order on the basis of instructions vide Annexures P-1 and P-2 whereby the interest was to be charged from the FCI and not from the officers and in this way the order passed by the Managing Director was totally wrong and erroneous and that is why it was so set aside by the Appellate Authority.

Learned counsel also submitted that even otherwise also no such action could have been taken against the petitioner since he retired on

30.06.2008 and show cause notice was issued to him in the year 2011 and the punishment order was passed in the year 2014 which was after the retirement. He submitted that at the time of the retirement of the petitioner there was neither any show cause notice nor any disciplinary proceedings nor any such kind of proceedings against the petitioner pertaining to the present subject matter and after the retirement of the petitioner, the employer-employee relationship ceased to operate and therefore even initiation of show cause notice against the petitioner after his retirement was without jurisdiction. He also referred to a judgment of this Court in **Satbir Singh versus State of Haryana and others** (CWP-7340 of 2017). He submitted that now by way of the appellate order, it is very clear that the orders of punishment passed by the Managing Director were illegal and therefore the denial of interest by the Appellate Authority was erroneous and against the law. He submitted that it is not the mistake of the petitioner at any point of time that the payments to be made by the FCI to the PUNSUP were delayed and even as per the instructions issued by the respondent Corporation as so referred to by the Appellate Authority, it is for the FCI who is to pay the interest and not the officers of the PUNSUP. He submitted that after the passing of the appellate order, now the pensionary benefits have been paid to the petitioner in the month of March 2018. He submitted that prior to that no pensionary benefits at all were given to the petitioner and therefore there was a delay of ten years in grant of the benefits for no fault of the petitioner.

On the other hand, Mr. Anil Bansal, learned counsel appearing on behalf of the respondents submitted that the payment has now been paid to the petitioner and the present petition was for the grant of interest on the payment is not maintainable. He submitted that in case the petitioner has any grievance then he can approach the civil Court and no writ petition can be filed in this regard.

I have heard the learned counsel for the parties.

The facts of the present case are admitted by both the parties. The petitioner had retired in the year 2008 and thereafter he was not paid any pensionary benefits. In the year 2011 a show cause notice was issued to him as to why he should not be held responsible for the delayed payment by the FCI to the PUNSUP. On the basis of show cause notice, a punishment order was passed in the year 2014 by the Managing Director vide Annexure P-3, whereby 33% of the total interest which was payable by the FCI has been put upon the petitioner which comes to about Rs.41,88,149/-. In this way, no amount at all was paid to the petitioner after his retirement and after passing of the punishment order. When an appeal was filed by him before the Appellate Authority, the Appellate Authority referred to the instructions issued by the respondent-PUNSUP itself that in such like situations responsibility of the officers of the PUNSUP cannot be fixed and the interest is to be paid by the FCI. Therefore, the order passed by the Managing Director was set aside/withdrawn since it was contrary to their own instructions issued by the PUNSUP with a direction to refund the amount already recovered. However, a rider was added by the Appellate Authority that interest will not be paid on the payment now which is to be refunded to the petitioner. Thereafter, in the year 2018, finally the pensionary benefits have been paid to the petitioner after a gap of ten years.

The petitioner has claimed interest on the aforesaid delayed payments. This Court is of the considered opinion that the petitioner shall be entitled for the grant of interest because of following reasons:-

1) The petitioner had retired in the year 2008 and a show cause notice was issued to him after his retirement. The relationship of the employer-employee had ceased to operate. No provision of law has been shown to this Court as to how show cause notice was issued to the petitioner after his retirement. The reference made by the learned counsel for the petitioner in ***Satbir Singh***'s case (supra) is well placed. Apart from the same, at the time of retirement, there were no proceedings or any disciplinary proceedings qua the present subject matter against the petitioner. Therefore, the very initiation of the proceedings after the retirement of the petitioner, were not in accordance with law.

2) The Appellate Authority has now come to the conclusion that there is no violation done by the petitioner because the amount which was sought to be given from the FCI to the PUNSUP was to be given at the end of the FCI and the interest is to be fastened upon the FCI and as per the Annexures P-1 and P-2 which are the instructions issued by the respondent-PUNSUP itself, the officers would not be the defaulter for the same and that was the reason as to why the Appellate Authority allowed the appeal of the petitioner. In other words, the petitioner was never at fault in view of the instructions of the respondent-PUNSUP itself and therefore he was wrongly penalised by the Managing Director. When an employee himself is not at fault, then in case his retiral benefits are withheld then he shall certainly be entitled for the grant of interest. A separate writ petition for

grant of interest itself is maintainable in view of the ratio of the Full Bench judgment in **A.S. Randhawa verus State of Punjab and others** 1997(3) SCT 468. Therefore the argument raised by learned counsel for the respondents that the present petition is not maintainable is contrary to the law laid down by the Full Bench of this Court in **A.S.*Randhawa***'s case (supra) and therefore the objection raised by learned counsel for the respondents is not sustainable.

3) The rider which was imposed by the Appellate Authority that no interest will be paid is without any reason and without any justification. Once the Appellate Authority comes to the conclusion that the punishment order which was passed by the Managing Director was without any justification and contrary to the instructions isused by the respondent-Corporation iteself, then there was no justification for the Appellate Authority to have imposed such a rider with regard to the payment of interest.

4) It is now well settled that the retiral benefits are not the bounty of the State and it is a right of property which is vested in a retired employee by virtue of Article 300-A of the Constitution of India.

In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 07.12.2016 (Annexure P-6) is hereby set aside only to the extent whereby interest has been denied to the petitioner. The petitioner shall be entitled for the grant of interest @6% per annum from the date of its accrual till the date of its disbursement.

The said amount shall be calculated by the respondent-Corporation and shall be paid 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 three months, then the petitioner shall be entitled for future interest @9% per annum instead of 6%.

In view of the aforesaid totality of facts and circumstances, the petitioner shall also be entitled for costs of Rs.20,000/- which shall also be paid within 4 months from today.

(JASGURPREET SINGH PURI)
JUDGE

February 13, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No