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

(219) **CWP No. 21242 of 2018
Date of Decision : 02.11.2023**

Subhash Chander

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Aarti Sharma, Advocate for
Mr. Shalender Mohan, Advocate for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

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<u>Harsimran Singh Sethi J. (Oral)</u>

1. In the present petition, the grievance of the petitioner is that the leave encashment and the gratuity amount for which the petitioner is entitled for, have not been released to him despite the fact that he has already retired.

2. Upon notice of motion, the respondents have filed the reply and in paragraph 1 of the preliminary submissions, the details of the payments made to the petitioner have been mentioned. According to the said averment, all the payment including the gratuity and leave encashment have already been made to the petitioner. As per the respondents, the petitioner has already retired and the remaining gratuity of Rs. 1,42,082/- was paid to the petitioner on 13.09.2018. The leave

encashment amounting to Rs. 1,14,471/- was paid to the petitioner on 22.11.2018.

3. Learned counsel for the petitioner has not been able to rebut the said contention.

4. At this stage, learned counsel for the petitioner submits that as the payments for which the petitioner was entitled for immediately upon retirement have been delayed, the petitioner is entitled for interest.

5. Learned counsel for the respondents has not been able to submit as to why, once the petitioner had already superannuated on 30.11.2017, the payments were made to him in September, 2018 and November, 2018. In the absence of any valid justification, it can be fairly said that delay in the release of the pensionary benefits was without any valid justification and the delay was attributable to the respondent-department.

6. As per the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,*** the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment. 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 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 front 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."

7. Further, a Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, has held that where 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."*

8. Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the payment of Rs. 1,42,082/- made on 13.09.2018 as well as on the payment of Rs. 1,14,471/- made on 22.11.2018. The interest will be calculated @

6% per annum from 01.12.2017 till the actual payment of the above said amount. Let the amount for which the petitioner becomes entitled for, be released in his favour within a period of two months from the receipt of certified copy of this order.

9. The writ petition is allowed in above terms.

November 2nd, 2023 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No