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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-541-2016 (O&M)
Date of Decision: 15.02.2023

Daljit Singh Josan

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Harminder Singh, Advocate, for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab,
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of *Mandamus* directing the respondents to release the monthly pension and all other retiral benefits including provident fund, gratuity, leave encashment, installments of dearness allowance alongwith interest @ 12% per annum.

Learned counsel for the petitioner has submitted that the petitioner was appointed as Agricultural Inspector in the Horticulture Department in the year 1964 and thereafter he was directed to retire prematurely on 02.04.1990. Thereafter he had filed a civil suit challenging the order of pre-mature retirement which was decreed on 16.04.1999 against which the department filed an appeal and the appeal was allowed on

19.11.1999 against which the petitioner had filed an RSA before this Court which is pending as the same having been admitted. He submitted that in the meantime the petitioner had already attained the age of superannuation in the year 1992 and de hors the fact that mere challenge to the order of pre-mature retirement, the petitioner was entitled for the grant of pension from the year 1992 onwards since he had already attained the age of superannuation. He further submitted that the right of the petitioner for getting pension could not extinguish merely on the fact that he was prematurely retired and he had challenged the same by filing a civil suit. He submitted that in this way the right of the petitioner to receive the pension started from the time when he had attained the age of superannuation in the year 1992.

Learned counsel for the petitioner has submitted that be that as it may, now during the pendency of the present petition, the petitioner has already been paid the pensionary benefits in the year 2016 by the department themselves and so far as the aforesaid amount which has been paid to the petitioner is concerned, the calculation of the same is disputed by the petitioner. However, at this stage, he does not wish to press his case pertaining to the quantum of amount which has been received by him and for that purpose, he may be permitted to file a separate representation to the department for the purpose of disputing the quantum which he has received which was based upon mis-calculation. He further submitted that even his juniors have been paid higher pension and for that purpose also, he may be permitted to file a separate representation to the department. He submitted that at present he restricts the scope of the present petition only

for the grant of interest on the delayed payment which the respondent-department has paid to the petitioner in the year 2016.

Ms. Akshita Chauhan, learned DAG, Punjab has submitted that it is correct that during the pendency of the present petition the petitioner has been paid his retiral benefits in the year 2016. She has however submitted while referring to the affidavit filed by the State that there is no delay on the part of the respondent-department because the petitioner had submitted that the documents pertaining to grant of pension in prescribed form only on 06.06.2003. She further submitted that some of the documents were not fully submitted and thereafter he submitted those documents in the year 2016 and therefore, there was no delay on the part of the respondent-department in disbursal of the retiral benefits.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner during the course of arguments has submitted that so far as his grievance with regard to wrong calculation of the pensionary benefits is concerned, he may be granted liberty for filing a separate representation and also with regard to the fact that the pension of the petitioner was wrongly fixed which was lower than the pension of the juniors is concerned, for that purpose he may also be granted liberty to file a separate representation before the Competent Authority. The prayer of the petitioner is just and proper. The petitioner has prayed that his aforesaid two prayers may not be considered by this Court at this stage and for that purpose he may be permitted to file a representation. The prayer of the petitioner is accepted. Liberty is granted to the petitioner to approach the Competent Authority by filing a comprehensive

representation with regard to the aforesaid two prayers.

So far as the limited prayer of the petitioner which survives in the present case is with regard to interest on the delay in the disbursement of the retiral benefits is concerned, as per the arguments raised by the learned counsel for the parties and as per the pleadings, the petitioner was directed to retire pre-maturely on 02.04.1990 but thereafter he had filed a civil suit challenging the aforesaid order of pre-mature retirement which was decreed but the same was reversed by the Appellate Court and now RSA is pending. However, the petitioner had attained the age of superannuation in the year 1992. This Court is of the view that the mere fact that he had challenged the order of pre-mature retirement would not extinguish his right for getting the retiral benefits in the absence of any specific order by the Court. However, no such order has been brought to the notice of this Court by either of the learned counsel for the parties. Therefore, in this way the petitioner was entitled for the grant of retiral benefits from the year 1992. However, as per the affidavit by the State, the petitioner has submitted the documents pertaining to grant of pensionary benefits only in the year 2003 i.e. 06.06.2003. During the course of arguments, learned counsel for the petitioner has also submitted that he may be granted interest on the retiral benefits w.e.f. 06.06.2003 which is the case of the respondent-department themselves that the petitioner had submitted the documents on that date and he will be satisfied in this regard in case he is granted interest from 06.06.2003 till the actual date of disbursement in the year 2016. This Court is of the view that the petitioner deserves the interest on the retiral benefits at least from 06.06.2003 till the actual date of disbursement i.e. in the year

2016. The argument raised by the learned counsel for the State that some formalities were deficient and were completed by the petitioner in the year 2016 is not sustainable in view of categorical affidavit filed by the State not once but twice it has been so stated that he has submitted Form-16 on 06.06.2003. The formality required regarding giving of option of account number or identity proof where amount is to be deposited cannot deprive the petitioner for grant of interest since onus was on the State to have sought the information well in time.

Consequently, the present petition is partly allowed. The petitioner shall be entitled for grant of interest @ 6% per annum on the retiral benefits from 06.06.2003 till 18.04.2016 when the disbursal was made to the petitioner. The said interest amount shall be calculated by the respondent-department and shall be paid to the petitioner within a period of four months from today. In case the aforesaid amount is not paid within four months, then the future interest shall be @ 9% per annum instead of 6%.

15.02.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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