IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5773 of 2017

228 **Date of Decision:12.01.2023**

Harnek Singh

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Ms. Akshita Chauhan, DAG, Punjab.

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JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus* for payment of interest on the delayed payment of retiral benefits.

Learned counsel for the petitioner has submitted that the scope of the present petition is only for the grant of interest on the delayed payment which has been delayed by the respondent State for no fault of the petitioner and therefore he is entitled for the grant of interest on the delayed payment. He referred to paragraph 4 of the writ petition wherein a chart has been prepared whereby the dates of the disbursement of the amount has been mentioned. He submitted that so far as the payment of GPF and GIS is concerned, he is not disputing since they were paid in time, but so far as his DCRG, leave encashment and regular full pension is concerned, the said amount was disbursed after unreasonable time. He submitted that the petitioner retired as Superintendent on 31.08.2015 which was on an extended period of one year since his date of superannuation was 31.08.2014 and he was granted an extension of one year and the right accrued to the petitioner on 31.08.2015 but DCRG was paid on 22.06.2016 after expiry of ten months and similarly leave encashment was paid after expiry of nine months. The regular full pension was also paid to the petitioner on 27.07.2016 which was about eleven months and therefore, for the aforesaid period of 9 months, 10 months and 11 months respectively, the petitioner is entitled for the grant of interest.

On the other hand, Ms. Akshita Chauhan, learned DAG, Punjab has submitted that a detailed reply has been filed by the State on behalf of respondents No.1 and 2 and while referring to the reply, she submitted that in fact the delay was not on the part of the State and the reasons for delay of the aforesaid months, has been properly explained in paragraph 5 of the reply. She submitted that it was due to unavoidable circumstances, administrative exigencies and laxity of the petitioner himself that there had been a delay of the aforesaid months for disbursement of payment to the petitioner. She submitted while referring to the aforesaid affidavit that the petitioner for the first time submitted his pension papers on 09.07.2014 in which he himself had given an undertaking that he did not want to opt for extension in service and therefore necessary action was initiated on the same day i.e. 9th of July 2014. However, after some time the petitioner had changed his mind and made a representation on 12.08.2014 for opting one year extension in service and as such his pension was withheld. During extension, the petitioner was promoted as Superintendent on 04.05.2015. Therefore, the Establishment Branch initiated further necessary action to prepare fresh case of the petitioner as Superintendent. However, during this process, in compliance of the orders passed by this Court in CWP-18438 of 2014 titled as Varinder Kumar versus State of Punjab, the petitioner was reverted to the post of Senior Assistant. Therefore, the pension case of the petitioner was transferred to Accounts-3 Branch on 05.08.2015 for further necessary action and on the very next date, i.e. on 06.08.2015 an action was initiated to prepare his pension case but in compliance of the order of the Secretary, General Administration, no entry was made in the service-book of the employee who were reverted as Senior Assistants till the decision of this Court, therefore, the authorities made order to keep the pension of such employees pending. Thereafter, on 01.09.2015 the petitioner gave an application to Establishment-1 Branch to step up his pay equal to his junior employees who were drawing more pay and accordingly his service book was again transferred to Establishment-1 Branch for necessary action. However, in the absence of any clarification regarding the order of this Court in the aforesaid civil writ petition, in case of the petitioner for grant of provisional pension was put up on 15.01.2016 and after getting it approved on the same day, the sanction order was released with effect from 01.09.2015. The provisional pension bill was prepared on 22.01.2016. The petitioner thereafter submitted his fresh pension papers as Senior Assistant on 11.03.2016 after which his case was sent to Accountant General, Punjab on 29.03.2016 for approval of pension and death-cum-retirement gratuity. The approved pension case was received back on 11.05.2016. After getting report of the provisional pension paid to the petitioner which amounted to Rs.1,97,024/- which was sent to the District Treasury Office, so that the concerned office could take further necessary action to grant regular pension to the petitioner. The office sanctioned DCRG of Rs. 8,92,683/- in favour of the petitioner on 31.05.2016 and on 09.06.2016 the same amount was sent to the treasury for clearance which was ultimately paid to him within time. So far as the payment of leave encashment is concerned, the petitioner made a representation on 21.01.2016 and sanction of leave encashment amounting to Rs.5,41,020/- was issued on 25.02.2016 and accordingly the bill was sent to the treasury. However, the bill was returned by the treasury on 31.03.2016 with an observation that the bill be sent in the next financial year and thereafter the revised sanction for the year 2016-17 was issued on 06.05.2016 and another bill dated 12.05.2016 of the same amount was sent to treasury for clearance. The petitioner had given a representation on 23.08.2016 for grant of arrears of leave encashment as a result of benefit granted under ACP scheme vide order dated 03.08.2016, i.e. after retirement. Therefore, after considering his representation, revised sanction for leave encashment of Rs.15,760/- was issued on 26.09.2016 and the bill was sent to the treasury for clearance.

Learned State counsel submitted that in this way there is no delay on the part of the respondents in view of the aforesaid facts and circumstances and therefore no interest can be granted to the petitioner.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner has confined the scope of the present petition pertaining to payment made regarding DCRG, leave encashment and regular full pension. However, as per the affidavit filed by the State counsel, he was already granted provisional pension at the time of the retirement and during the time when he was on extension, he was promoted to the post of Superintendent and thereafter when the order in CWP-18438 of 2014 was passed by this Court, he was reverted back. The delay of ten months in DCRG, nine months delay in leave encashment and about eleven months delay in regular full pension was also because of the facts and circumstances which have been well explained by the State. Therefore, this Court is of the view that considering the aforesaid facts and circumstances, the delay of ten months, nine months and eleven months respectively is well explained and justified.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

January 12, 2023
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Whether speaking : Yes/No
Whether reportable : Yes/No