111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17848-2023 (O&M)
Date of decision: 03.10.2023

Tarlok Singh **Petitioner**

V/s

Chairman/Managing Director and others **Respondents**

<u>CORAM</u>: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. HPS Ghuman, Advocate
for the petitioner.

Mr. Rangat Joshi, Advocate
for respondent Nos.1 to 6.

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<u>DEEPAK MANCHANDA J. (ORAL)</u>

<u>CM-16826-CWP-2023</u>

This is an application under Section 151 CPC for placing on record the rejoinder of the petitioner to the reply filed by respondents.

For the reasons mentioned in the application, same is allowed and the rejoinder is taken on record.

<u>Main case</u>

1. Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus, directing the respondents for payment of interest @ 18% per annum on the delayed payments made in respect of arrears of pension, gratuity, leave encashment, commutation, revision of pay scale and other retiral benefits w.e.f. 01.02.2022 till the date the payments were made by deciding the representation dated 04.07.2023 (Annexure P-1) by passing a speaking order.

2. Learned counsel for the petitioner submits that the petitioner joined the respondent-Department on work charge basis on 27.1.1994 and was redesignated as Workman on 6.10.2006. Thereafter the petitioner was promoted to the post of Assistant Lineman on 13.10.2008 and was further promoted to the post of Lineman on 13.9.2019 and finally, the petitioner superannuated from the post of Lineman on 31.1.2022.

3. Learned counsel further submits that the petitioner was paid amount of ₹ 1,76,081 on 11.11.2022 towards revision in pay scale, ₹ 8.96,000/- towards gratuity on 04.11.2022, arrears of pension amounting to ₹2,52,400/- on 01.10.2022, ₹9,78,450/- towards computation on 04.11.2022 and ₹6,04,640/- towards leave encashment on 21.12.2022. Learned counsel contends that as the petitioner retired from service w.e.f. 31.01.2022, therefore, he is entitled for interest @18% on the delayed payments made to him, as the said benefits accrued to him as incidence of service.

4. On 18.08.2023, learned counsel for respondent Nos. 1 to 6 sought time to have instructions and on 31.08.2023 filed affidavit of Jaswinder Singh, Additional S.E., Operation Division PSPCL Nabha dated 29.08.2023, which was taken on record. Learned counsel for the respondents while referring to the affidavit submits that vide memo No. 1244 dated 26.07.2021, the request of the petitioner for adding his service as work charge towards regular service was forwarded to Additional Superintending Engineer, Administration Division, Nabha which was further forwarded to the Regional Provident Fund Commissioner, Chandigarh vide letter bearing No.8594 dated 17.08.2021. The work charge case of the petitioner was prepared and he was required to deposit the EPF amount with interest to the Department, therefore, on 04.04.2022, petitioner deposited an amount of ₹ 2,67,546/- vide receipt No. 54270 dated

04.04.2022 (Annexure R-4). He further submits that in December, 2021 i.e. only one month before his retirement, the petitioner submitted requisite pension documents, whereas he was supposed to submit the same at least 6 months prior to his retirement. He further submits that the request letter of the petitioner (Annexure R-1) was dealt with instantly and hence there was no delay on the part of the respondents in disbursing the retiral benefits to the petitioner, and therefore, the petitioner is not entitled for any interest as claimed by him.

5. In response to the reply filed, the petitioner filed a rejoinder taking a categoric stand that the respondents received the requisite information from the office of Regional Employees Provident Fund, Chandigarh on 03.11.2021 i.e. three months prior to the retirement of the petitioner and it was for the respondents to intimate him for depositing the desired EPF amount. However, the said demand was raised by the respondents in the month of April, 2022 i.e. after five months of the receipt of the information from the office of Regional Employees Provident Fund, Chandigarh, which was immediately deposited by the petitioner on 04.04.2022 and therefore, there is no delay on the part of the petitioner in depositing the said amount. It has been further agitated that PPO number was issued on 24.08.2022 i.e. after seven months of retirement of the petitioner.

6. I have heard learned counsel for the parties and perused the material available on record.

7. The perusal of the material available on record reveals that it is only after much delay the petitioner has been released his retiral benefits by the respondents, which he was entitled to be paid well in time. As per the settled principle of law settled by the Full Bench of this Court in "***A.S. Randhawa Vs. State of Punjab***", ***1997 (3) SCT 468*** an amount for which an employee is entitled

for, especially, pensionary benefits, if not released within a reasonable time, will carry the interest as well. The relevant portion of the 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 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 the 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."*

8. Not only this, a Co-ordinate Bench of this Court while deciding "***J.S. Cheema versus State of Haryana and others", 2014 (13) RCR (Civil) 355***, has held that once the amount has been retained by the department, the department is liable to pay the interest on the said retained amount. The relevant portion of the said judgment 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."*

9. In view of the above, it can be safely said that once the amount was released by the respondents after an inordinate and unexplained delay, the petitioners become entitled for the interest.

10. This Court finds that as there is no justifiable reason with the respondents to withhold the pensionary benefits and admittedly as per the reply, there is delay on the part of the respondents which has not been explained.

Accordingly, the petitioner is held entitled for interest on the delayed payments @ 6% per annum from the date it became due till the same was released to him. Let the calculation of the interest be done by the respondent-Corporation within a period of two months from the date of receipt of copy of this order and the amount so calculated by the respondents shall be released to the petitioner within a period of one month thereafter.

11. The writ petition stands allowed in above terms.

(DEEPAK MANCHANDA)
JUDGE

03.10.2023
sapna/vanita

Whether speaking/reasoned Yes/No
Whether reportable Yes/No