

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21871 of 2020

Date of Decision:20.03.2023

Prem Kumar

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amit Arora, Advocate,
for petitioner.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.1 to 3.

Mr. M. S. Virk, Advocate,
for respondent No.4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to release the retiral dues including pension, gratuity, leave encashment, GPF, arrears, ACP arrears and other retiral benefits alongwith interest @18% per annum.

Learned counsel for the petitioner submitted that the petitioner retired as Sweeper on 31.01.2020 and on the retirement of the petitioner, he was entitled for the grant of all the retiral benefits immediately and there was no impediment for the grant of the retiral benefits to the petitioner. He further submitted that the pension of the petitioner was not released immediately after

his retirement and it was released on 18.02.2021 alongwith arrears of pension. He submitted that so far as the other retiral benefits are concerned, the same were also released at different points of time which has been so stated in the reply filed by respondent No.4-Executive Officer, Municipal Council, Tarn Taran in preliminary objection No.1 and a perusal of the same would show that the amount of retiral benefits were paid in part and on different dates till March 2021. He submitted that the ground which has been taken by learned counsel for the respondent was that because of paucity of funds and Covid-19 pandemic the same could not be released but there is no legal impediment which has been so stated in the reply and therefore in view of the law laid down by a Full Bench judgment of this Court in **A.S. Randhawa versus State of Punjab and others** 1997(3) SCT 468 the petitioner is entitled for the grant of interest on the delayed payments.

On the other hand, Ms. M.S. Virk, learned counsel appearing on behalf of respondent No.4-Municipal Council submitted that it is correct that there was no legal impediment for withholding the pensionary benefits to the petitioner but as per the reply filed by respondent No.4 it was because of the paucity of funds and also because of Covid-19 pandemic that the same could not be released to the petitioner and therefore the petitioner is not entitled for the grant of interest.

I have heard the learned counsel for the parties.

The petitioner retired on 31.01.2020. There was onset of Covid-19 pandemic towards the end of March 2020 whereas the petitioner had retired two months before that. The petitioner was entitled for the retiral benefits immediately at the time of his retirement and there was no legal impediment for

denying the same. Even otherwise also from the perusal of the table which has been so prepared by learned counsel for the respondent-Council in the written statement filed by it, the payments were made thereafter even in September 2020, January 2021 and March 2021 and even the pension was paid to the petitioner on 18.02.2021. Due to Covid-19 pandemic there was certainly lock-down in the entire country and there was also curfew imposed for some period of time but thereafter functioning had started. The petitioner had retired almost two months before the onset of Covid-19 pandemic. No justifiable reason has come forth for delay caused in disbursement of the retiral benefits to the petitioner. So far as the paucity of funds is concerned, it is a settled law that paucity of funds is not a ground for denial/withholding of retiral benefits to the petitioner. The petitioner had retired as a Sweeper and he, according to learned counsel for the petitioner, was in dire need of money after his retirement.

In view of the aforesaid position and in the absence of any justifiable reason on the part of the respondent-Council, the present petition is allowed. The petitioner shall be entitled for the grant of interest @6% per annum from the date of his retirement till the date of its actual disbursement of all the amounts on different heads/counts.

The respondent No.4 shall calculate the same and pay to the petitioner within a period of six months from today.

In case the aforesaid amount is not paid to the petitioner within a period of six months as stated above, then the petitioner shall be entitled for the future rate of interest @9% per annum instead of 6% per annum.

In addition to above, considering the fact that the petitioner was a Sweeper and he was not granted the retiral benefits in time, the petitioner shall

also be entitled for costs of Rs.10,000/- and the same shall also be paid within a period of six months.

(JASGURPREET SINGH PURI)
JUDGE

March 20, 2023

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