IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(217) **CWP-6700-2018 (O&M)**
Date of Decision : August 29, 2023

Rajinder Singh **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pardeep Kumar Rapria, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-17042-CWP-2022

As prayed for, the application is allowed.

Replication to the written statement filed on behalf of respondents No. 1 to 5 and Annexure P-9 are taken on record.

CWP-6700-2018

1. In the present petition, the grievance which is being raised by the petitioner is that though he had retired from service on 31.07.2017 but his pensionary benefits have not been released to him, which has caused prejudice to him.

2. In the reply, the respondents have stated that as the service book of the petitioner was not complete, complete pensionary benefits could not be released to the petitioner and the service book was got completed in

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October 2018 after which the entitlement of the petitioner was re-assessed after re-fixing his pay under the recommendation of the 7th Pay Commission and as of now, all the benefits have already been released to the petitioner.

3. As per the respondents, the payments have been made to the petitioner starting from March 2018 onwards till April, 2019.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Non-completion of the service book cannot be a ground to withhold the pensionary benefits of an employee. Even otherwise, the petitioner was entitled for the revision of the pay immediately but the respondents took their own time to revise the pay of the petitioner and assess the pensionary benefits, for which act the Department is responsible.

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 to an employee 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*

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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. In the present case, no impediment has been brought to the notice of this Court according to which, the pensionary benefits of the petitioner could be withheld. Non-completion of the service book is attributed to the respondent-Department only and not to the petitioner.

8. 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."

9. Keeping in view the above, as the pensionary benefits have been delayed by the respondents for more than two months, the petitioner is held entitled for interest @ 6% per annum from the date the amount became due till the actual release of the same. Let the respondents calculate the amount of interest for which the petitioner has become entitled for under this order and release the same in favour of the petitioner within a period of two months. It is also mentioned that in case according to the petitioner,

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any of his benefit is yet to be paid by the respondents, the petitioner will be free to file appropriate representation, which claim will also be considered by the respondents within the aforesaid period.

10. The present petition is allowed in above terms.

August 29, 2023 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No

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