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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-9311-2018

Date of Decision: 24.02.2023

Sukhwinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Jyoti Sareen, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The 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 to release the retiral benefits, pension, commuted pension, gratuity, leave encashment, GPF etc. to the petitioner along with delayed period interest @12% per annum w.e.f. the date of retirement of the petitioner till realization.

Learned counsel for the petitioner has submitted that it is case where the petitioner had retired on 31.07.2017 as a Group Instructor from the respondent-Department and prior to the retirement, the petitioner was facing disciplinary proceedings regarding which, a punishment order was also passed on 05.06.2017 imposing 5% cut in pension of the petitioner, which they have already recovered and the aforesaid punishment order was passed prior to his retirement. At the time of his retirement, the Gratuity amount and other benefits were already sanctioned but the respondent did

not pay the same, and therefore, the petitioner has filed the present petition in the year 2018. She further submitted that thereafter on 19.04.2018, a Co-ordinate Bench of this Court had directed that in the meanwhile, an amount of Rs.15,72,096/- along with interest upto 30.09.2017, which has already been sanctioned/approved by the Head Office on 18.10.2017 be released to the petitioner, if there is no legal impediment. She submitted that thereafter during the pendency of the present petition, the amount on different heads was released to the petitioner regarding which details have been given in a tabulated form in Para No.4 of the reply, which has been filed by the respondent/State and a perusal of the aforesaid dates mentioned in a tabulated form, would show that there has been a delay in payment of the retiral benefits of the petitioner on different heads and the reason which has been stated so in the aforesaid paragraph by the State is that it was purely due to administrative reasons and there is no ill-will involved on the part of the respondents. She further submitted that apart from the above, another reason which was given by the State was that the earlier when the petitioner was suspended during the course of inquiry, the suspension period was regularized only on 03.07.2018. She also submitted that the aforesaid reason can not become a ground for withholding the pensionary benefits since the fault was only at the hands of the respondents and not because of the petitioner and in case any period is to be regularized, then it was to be done by passing an order by the respondents themselves and the petitioner cannot be faulted with regard to the same. She further submitted that now the scope of the present petition confines only to the extent of grant of interest on the delayed payments in view of the judgment passed by the Full Bench of this Court in **“A.S. Randhawa Vs. State of Punjab and others”**, 1997(3) SCT

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On the other hand, Ms. Anju Sharma Kaushik, learned DAG, Punjab submitted that it is correct that during the pendency of the present petition, the amount has been paid to the petitioner. She has however submitted that since the suspension period was not earlier regularized but it was regularized only on 03.07.2018, it was also one of the reasons as to why there was a delay in disbursement of the pension and it was only because of the administrative reasons the delay has occurred.

I have heard the learned counsel for the parties.

The petitioner retired on 31.07.2017 and before his retirement, there was a punishment order against him but after his retirement, the respondent/State was under an obligation to fix the pension and to pay the pensionary benefits to the petitioner. A perusal of the order passed by this Court on 19.04.2018 would show that even prior to that date, the amount had already been sanctioned by the Head Office and that is why this Court had directed that in the meanwhile, an amount of Rs.15,72,096/- along with interest be released to the petitioner. The Para No.4 of the Preliminary Submissions would show that in a tabulated form, the dates of disbursement of the amount have been mentioned and all the payments have been made with delay. The justification put forth by the learned State counsel that the suspension period of the petitioner could not be regularized even after his retirement and it was done only by passing of an order dated 03.07.2018, cannot become a ground for denial of interest to the petitioner because it was the duty of the concerned officers to have passed an order with regard to the regularization of the suspension period and it is not a fault of the petitioner in this regard. Once the petitioner had retired and there is no

impediment otherwise for disbursement of the retiral benefits, then it is a duty of the State Government to pay the retiral benefits as early as possible. A perusal of Para No.4 would also show that it has been so stated by the respondents/State that it was only because of the administrative reasons that there has been a delay. This Court is again of the view that administrative reasons cannot become a ground for delay in disbursement of the retiral benefits to an employee.

In view of the aforesaid position and considering the judgment passed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, the present petition is partly allowed and the petitioner shall be entitled for grant of interest @ 6% per annum on all the retiral benefits which have been paid with a delay from the date of retirement of the petitioner till the date of disbursal.

In case, the petitioner has already been granted some interest in view of the orders passed by this Court on 19.04.2018, then that amount, if any, shall be adjusted.

The respondent/State is directed to calculate the arrears of interest and pay to the petitioner within a period of three months from today.

In case, the aforesaid amount is not paid within a period of three months from today, then the petitioner shall be entitled for future interest @ 9% per annum.

24.02.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |