

226

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-27174-2019 (O&M)
Date of Decision: 21.03.2023

Jaswinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Dr. S.S. Joshi, Advocate,
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of *mandamus* for directing the respondents to release his retiral dues including DCRG, Leave Encashment and Pension from 26.10.2018 with interest @18% per annum.

Learned counsel for the petitioner has submitted that during the pendency of the present petition, all the retiral benefits have now been paid to the petitioner except for benefit of revision of pension due to revision of pay-scale. He further submitted that so far as the prayer of the petitioner for grant of revised pension on the basis of revision of pay-scale is concerned, he may be permitted to file a separate comprehensive representation to the respondent-Authority, so that he may pursue the same before the appropriate

authority in accordance with law and so far as the second prayer is concerned i.e. pertaining to the grant of interest on the delayed payments which has been caused because of the respondent and not because of the fault of the petitioner.

Learned counsel for the petitioner further submitted that the petitioner had attained the age of superannuation on 31.05.2017 and thereafter, he was granted an extension for one year. Thereafter again, he was granted another extension of one year but before the expiry of the period of one year, he was retired on 25.10.2018 vide Annexure P-1. He submitted that after even as per the reply filed by the State after his retirement there was a charge-sheet issued to the petitioner vide Annexure P-2 which is dated 09.11.2018 and on the basis of the charge-sheet, an inquiry was conducted in which the charges were not proved and the inquiry was, therefore, dropped and the petitioner was exonerated from the inquiry. He further submitted that the retiral benefits have been delayed only because of the existence of the aforesaid charge-sheet against the petitioner which was served upon the petitioner after his retirement and once he is exonerated, the petitioner is entitled for the grant of interest on the delayed payment because the delay has been caused by the respondent and not because of the fault of the petitioner. He also submitted that in the reply which has been filed by the State in Para No.7, the date of payment has been mentioned in a tabulated form and he is, therefore, entitled for the grant of interest from the date of his retirement till the actual disbursement of the retiral benefits.

On the other hand, Mr. Sandeep Chopra, learned DAG, Punjab submitted that it is correct that the petitioner had retired vide Annexure P-1

on 25.10.2018 and after his retirement, the charge-sheet was issued to him vide Annexure P-2 dated 09.11.2018, in which he has since been exonerated. He further submitted that the delay in disbursement of the amount has been caused because of the pendency of the charge-sheet.

I have heard the learned counsel for the parties.

The petitioner had retired on 25.10.2018 and after his retirement, he was served with a charge-sheet in which he has since been exonerated and the charge-sheet issued against him has already been filed vide Annexure R-1 dated 01.09.2020. During the course of arguments, a specific query was raised to the learned State counsel that as to whether any order was passed by any competent authority for withholding the retiral benefits of the petitioner to which he replied that no such order has been passed nor it has been so stated in the reply filed by the State. Therefore, it is clear that the retiral benefits of the petitioner have been withheld without any authority of law and without passing any order and even otherwise also the charge-sheet was served to the petitioner after his retirement and it has since been filed after the petitioner has been exonerated. Therefore, the petitioner is certainly entitled for the grant of interest on the delayed payments which have been mentioned in tabulated form in Para No.7 of the reply.

Consequently, the present petition is partly allowed. The petitioner shall be entitled for the grant of interest @ 6% per annum on all the retiral benefits which have been paid to the petitioner from the date of its accrual till the date of its disbursement. The respondents are directed to calculate the same and pay to the petitioner within a period of four months

from today.

In case, the aforesaid amount is not paid within aforesaid period, then the petitioner shall be entitled for future interest @ 9% per annum instead of 6% per annum.

So far as the first prayer of the petitioner with regard to non-payment of revised pension on the basis of the revision of pay-scale is concerned, the petitioner shall always be at liberty to move a separate comprehensive representation to the concerned competent Authority in accordance with law.

21.03.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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