

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CWP-32071 of 2019

Date of Decision:27.03.2023

Shinder Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mandeep Singh Kaler, Advocate,
for petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Ms. Ekjot Sandhu, Advocate,
for respondent No.4-MC.

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 *certiorari* for quashing of the impugned order dated 03.09.2019 passed by respondent No.4 in pursuance of an order passed by this Court in CWP No.14444 of 2019.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner retired as a Plumber from the respondent-Municipal Council on 30.04.2018 and thereafter his retiral/pensionary benefits were not paid to the petitioner and there is no justification for withholding the same as there was neither any disciplinary proceedings nor any judicial proceedings pending against the petitioner and it was only because of the weak financial position of

the Municipal Council that the same was not released. He submitted that earlier also he had filed a writ petition before this Court in CWP-14444 of 2019 in which directions were issued by this Court vide Annexure P-5 to pass a speaking order and decide the legal notice sent by the petitioner within a period of three months. Thereafter the impugned order Annexure P-7 has been passed whereby it has been so stated by the Executive Officer, Municipal Council, Tapa Mandi, District Barnala that some amount has already been paid to the petitioner but the remaining amount could not be paid because of the weak financial position of the Municipal Council, Tapa Mandi which was not stable and there were large liabilities of the Municipal Council and it was also stated in the impugned order that keeping in view the financial position of Municipal Council, Tapa Mandi, the balance amount will be paid to the petitioner in installments of Rs.50,000/- per month.

Learned counsel further referred to the orders passed by a co-ordinate Bench of this Court in the present case whereby reference was made to a Division Bench judgment of this Court in **Ram Karan versus Managing Director, Pepsu Road Transport Corporation and another, 2005 (3) PLR 580** to contend that the adverse financial position of the institution cannot become a ground for denial of retiral benefits to the employee. Learned counsel further submitted that now during the pendency of the present petition, all the retiral benefits have been paid to the petitioner but interest has not been paid in this regard. He submitted that the pensionary benefits of the petitioner are a Constitutional Right under Article 300-A of the Constitution of India and even a separate writ petition is also maintainable 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 and therefore in the absence of any justifiable reason the petitioner is entitled for the grant of interest on the delayed payments.

On the other hand, Ms. Ekjot Sandhu, learned counsel appearing on behalf of respondent No.4-Municipal Council submitted that it is correct that there was nothing adverse against the petitioner and it was only because of the weak financial position of the Municipal Council that the amount could not be given to the petitioner. She submitted that now during the pendency of the present writ petition, all the retiral benefits have been paid to the petitioner.

I have heard the learned counsel for the parties.

During the pendency of the present writ petition as per learned counsel for the parties all the retiral benefits have been paid to the petitioner. The only grievance left with the petitioner is for the payment of interest on the delayed payment. There is no justifiable reason neither in the reply filed by the Municipal Council nor in the arguments raised by learned counsel for the respondent-Municipal Council to show any good ground for not releasing the payment of the retiral benefits to the petitioner immediately after his retirement. The only ground which has been taken by the Municipal Council is with regard to weak financial position of the Municipal Council. However, such ground is not available with the employer in view of the ratio of the judgment of a Division Bench of this Court in ***Ram Karan***'s case (supra). The right to receive retiral/pensionary benefits is a Constitutional Right which is vested in the petitioner under Article 300-A read with Article 21 of the Constitution of India. The weak financial position of an institution cannot become a ground for denial of interest. Consequently, the present petition is

allowed. The petitioner shall be entitled for the grant of interest @ 6% per annum on all the retiral/pensionary benefits paid to him from the date of its accrual till its disbursement to the petitioner, which shall be paid to the petitioner within a period of six months from today.

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

However, there is no order as to costs.

(JASGURPREET SINGH PURI)
JUDGE

March 27, 2023

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