110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23727-2023
Date of decision: 22.11.2023

Mander Singh ......Petitioner

V/s

Punjab State Power Corporation Limited and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. V.K. Shukla, Advocate
for the petitioner.

Mr. K.S. Kharbanda, Advocate
for the respondents.

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DEEPAK MANCHANDA J.

1. By way of present writ petition the petitioner seeks directions for release of his retiral benefits on account of his retirement on 31.05.2015, which have been withheld on the pretext that a charge sheet dated 27.05.2015 is pending against him, but despite disposal/conclusion of the same vide order dated 02.08.2022 (Annexure P-4) passed by respondent No. 2, the due benefits have not been released to him.

2. Vide order dated 18.10.2023, this Court directed the respondents to seek instructions with regard to release of retiral benefits if there is no legal impediment. In pursuance to the same on 02.11.2023 learned counsel for the respondents apprised this Court that an amount of Rs.17,42,805/- has already been paid to the petitioner (Rs.8,85,303/- towards grauity, Rs.5,20,610/- towards leave encashment and Rs.3,36,892/- towards commutation) and an amount of

Rs.14,53,817/- towards pensionary benefits is yet to be paid. In view of the statement made by learned counsel for the respondents, this Court directed to file a detailed affidavit with regard to the calculation and benefits which were supposed to be released to the petitioner. Accordingly, today in compliance of order dated 02.11.2023 learned counsel for the respondents has assured this Court that all the retiral benefits shall be released to the petitioner by 02.12.2023 and an affidavit of Jasbir Singh, Additional Superintending Engineer, Division PSPCL, Bhagha Purana, Tehsil Bhagha Purana, District Moga dated 07.11.2023 has also been filed to this effect which is already on record.

3. Learned counsel for the petitioner submits that petitioner was retired from service on 31.05.2015 and his retiral benefits were not released alleging pendency of a charge-sheet No.7703 dated 27.05.2015 which was decided vide order dated 02.08.2022 (Annexure P-4). He further submits that the respondents had withheld the retiral benefits on account of pendency of charge-sheet, which was not decided by them and it is only when after knocking the doors of this Court vide CWP-7139 of 2022 which was disposed of vide order dated 05.04.2022 where direction were issued to finalize/conclude the disciplinary proceedings qua aforesaid charge-sheet within a period of four months.

4. I have heard learned counsel for the petitioner and have gone through the case file with minute care.

5. In compliance of the order dated 05.04.2022 passed by this Court, the respondents vide order dated 02.08.2022 (Annexure P-4) decided the charge-sheet holding the petitioner guilty of the charges levelled against him and disposed of the charge-sheet by imposing cut of 1% (one percent) upon his pension for one year and treating his suspension period from 25.05.2015 to 29.05.2015 as Extra Ordinary Leave. So it is the respondents who delayed the

release of retiral benefits which could have been released to the petitioner had the charge-sheet been decided in time. As per order dated 02.11.2023 as well as the affidavit dated 07.11.2023 it is only after filing of present writ petition and intervention of this Court, the respondents released the partial payments of retiral benefits on 01.11.2023 and 02.11.2023, as depicted in para 6 of the affidavit dated 07.11.2023 and assured this Court that the arrears of pension to the petitioner amounting to Rs.14,53,817/- will be released to the petitioner on 02.12.2023. Admittedly, there is a delay in disbursing the retiral benefits where no satisfactory explanation for the said delay has comeforth.

6. The facts which have been stated before this Court are not in dispute. As per the settled principles of law settled in ***A.S. Randhawa versus State of Punjab and others, 1997 (3) SCT 468*** the pensionary benefits were required to be released within a period of two months of the retirement in case there is no impediment failing which an employee is entitled for the grant of interest. The relevant paragraph of the judgment is reproduced hereinbelow:-

> *"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 retired 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 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. Even otherwise, the Coordinate Bench of this Court in of ***J.S. Cheema v. 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 respondent-

department, 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."*

8. Since nothing has come on record to show that why the charge-sheet dated 27.05.2015 pending against the petitioner was decided after seven years of his retirement and it is only after intervention of this Court, the same was decided on 02.08.2022 which cannot be the reason to delay the release of retiral benefits where there is no valid justification and said act of the respondents has caused prejudice to the petitioner hence, the payment of interest on the delayed release of benefits after more than eight years of retirement cannot come to the rescue of the respondents-Department so as to escape the liability of payment of interest.

9. Keeping in view the settled principles of law, the petitioner is held entitled for the grant of interest on delayed release of pensionary benefits as well as arrears @ 6% per annum from the date the petitioner retired till the actual payments have been made. The respondents-Department is directed to calculate and release the same, within a period of two months from the date of receipt of certified copy of this order.

(DEEPAK MANCHANDA)
JUDGE

22.11.2023
sapna

Whether speaking/reasoned Yes/No
Whether reportable Yes/No