2023:PHHC:105643

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 37979 of 2018
Date of decision : 16.08.2023

Ramesh Chand

….Petitioner

Versus

State of Haryana and Anr

….Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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Present :- Mr. S.S. Khurana, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. H.S. Oberoi, Advocate for respondent No.2.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, prayer of the petitioner is for grant of interest on the delayed release of the pensionary benefits.

Certain facts are necessary to be stated for correct appreciation of the issue in hand.

The petitioner joined the Department of Panchayat Development as Clerk on 13.11.1980 and attained the cadre of District Development and Panchayat Officer upto the date, he attained the age of superannuation and retired on 31.08.2017. It is on record that upto the date of his superannuation, no departmental proceedings were pending against the petitioner so as to confer a right to the respondent-department to withhold his pensionary benefits. Despite this, the pensionary benefits of the petitioner were not released to him by the respondent-department within the required period and the same were only released after a delay of more than nine months. The petitioner claimed the grant of interest on the delayed release of the pensionary benefits but the said claim was rejected by the respondent vide impugned order dated 23.10.2018 (Annexure P.5), which is under challenge in the present petition.

Learned counsel for the petitioner argues that in the present case, no departmental proceedings were pending on the day, the petitioner attained superannuation and, therefore, keeping in view the settled principles of law, there was no reason to withhold the pensionary benefits of the petitioner, hence the respondents are liable to pay interest on the delayed release of pensionary benefits.

Learned counsel for the respondents, on the other hand, contends that as per Rule 71 of the Haryana Civil Services (Pension) Rules 2016, the petitioner was required to submit his pension papers, complete in all respect atleast one year prior to the date of his retirement whereas the pension forms were filled up only fifty five days prior to the date of his retirement, therefore, non-release of the pensionary benefits within the time frame is attributed to the petitioner and not the Department. The petitioner is himself responsible for the delayed release of his retiral benefits for which he cannot blame the department.

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

It is not disputed that on the day when the petitioner retired, there was no disciplinary proceedings pending against him. Despite the said fact, the respondent vide order dated 15.03.2018 (P.1) wrote to the Principal Accountant General (A&E), Haryana not to release the pensionary benefits of the petitioner with the provisional pension having been released. It was due to the letter dated 15.03.2018 that the pensionary benefits of the petitioner were delayed.

The ground being taken by the respondent in the reply is totally an after-thought not being the actual reason for the delay in release of pensionary benefits. On being asked as to why the pensionary benefits of the petitioner were stopped especially, when there were no disciplinary proceedings pending against the petitioner, the respondent could not come up with any reason much less any justifiable explanation. A show cause notice issued will not confirm to the disciplinary proceedings and the issuance of same can not confer a right upon the respondent to withhold the pensionary benefits.

As per settled principles of law as settled by Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, an employee is entitled for the release of pensionary benefits within a period of two months from the date of the retirement, in case, there is no impediment failing which, the employee will be entitled for the grant of interest so as to compensate the delay. 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 from 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."*

In the present case, no impediment in the release of pensionary benefits has been brought to the notice of this Court so as to justify the delay. Hence, as the respondents failed to release the pensionary benefits within a period of two months from the date of retirement of the petitioner, the petitioner becomes entitled for grant of interest. A co-ordinate Bench of this Court in **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 this judgment reads 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."*

In the present case, amount which became due to the petitioner on his retirement was kept by the department for more than one year before the same was released, hence keeping in view the ratio of law in **J.S. Cheema's case (supra)**, the petitioner becomes entitled for grant of interest. Thus, in opinion of this Court, the claim of the petitioner has wrongly been rejected by the respondent qua grant of interest and thus, the impugned order dated 23.10.2018 (Annexure P.5) is accordingly set aside. The petitioner shall be entitled for the payment of interest @ 6% per annum on delayed release of pensionary benefits from the date, the pensionary benefits became due till the actual disbursement of the amount. Respondents are directed to calculate interest for which the petitioner became entitled for and release the same within a period of two months from the receipt of certified copy of this order.

August 16, 2023 **(HARSIMRAN SINGH SETHI)**
manoj **JUDGE**

Whether speaking/reasoned: Yes
Whether Reportable : No