IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-339-2022
Date of decision : 18.04.2024

Charanjit Singh ….Petitioner

V/S

Punjab State Power Corporation Ltd. and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. J.S. Jaidka, Advocate with
Mr. Abhishek Khullar, Advocate for the petitioner.

Mr. Roshan Lal Sharma, Advocate for the responents.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of certiorari for quashing the order dated 20.03.2020 (Annexure P-6), whereby the claim of the petitioner for grant of interest on the delayed payment of retiral benefits, has been rejected and further seeking a writ of mandamus directing the respondent-Corporation to grant interest @ 12% per annum on the delayed retiral dues.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner retired from the office of respondent No.3 as Junior Engineer Installation on 31.01.2018, on attaining the age of superannuation. The petitioner was served with a charge-sheet during his service tenure which was decided on 27.04.2018 in which the petitioner was found guilty and a cut of 10% in the pension of the

petitioner has been imposed for the period of 10 years. However, the pension payment order of the petitioner was prepared on 03.04.2019 which is after almost 15 months of his retirement. For getting the interest on the delayed payments of retiral benefits, the petitioner submitted several representations to the respondent-Corporation but to no avail. Thereafter, for claiming the said relief, the petitioner has approached this Court by filing CWP No.36631 of 2019 which was disposed of vide order dated 18.12.2020 with a direction to the respondents to decide the representation dated 10.07.2019 made by the petitioner, within a period of three months from the receipt of certified copy of the order. Pursuant to the order passed by this Court, respondent No.4 has passed the impugned order dated 20.03.2020, whereby the claim of the petitioner for grant of interest on the delayed payment of retiral benefits has been rejected. Hence this petition.

3. On issuance of notice of motion reply on behalf of the respondents has been filed. In the said reply, it has been stated as under :-

> *"5. xx xx xx xx xx*
> *That though under the aforesaid provision of Rule ordinarily the retiree is entitled for pension or other benefits within 02 months in ordinary circumstances but in the present case the petitioner was facing disciplinary proceedings initiated during service in which he was found guilty and the punishment of 10% cut in pension for 10 years was imposed upon the petitioner only on 27.04.2018. Thereafter, the process of preparing pension papers of the petitioner was started. The list of dates when the pension*

> *benefits were started and calculated finally/approved by competent authority is described in the brief detail attached as per Annexure R-1. As per the detail Annexure R-1, there was no in-ordinate delay but the delay is procedural as the offices are located at different places of the state.*
>
> *xx xx xx xx xx"*

4. Learned counsel for the petitioner submits that although all the retiral benefits have been released to the petitioner, however, the same have been released after a considerable delay. The petitioner has retired on 31.01.2018 and the charge-sheet pending against him has been decided on 27.04.2018 i.e. within three months of his retirement, however, the pension was released on 03.04.2019. Leave encashment was paid on 14.09.2018, the arrears of pension amounting to Rs.4,74,172/- was paid on 01.05.2019 and gratuity amounting to Rs.9,88,220/- was paid on 15.07.2019. Since the retiral benefits have been released after a considerable delay, therefore, the petitioner is entitled for interest on the delayed payment of retiral benefits in view of the law laid down by a Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** and ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***.

5. On the other hand, learned counsel for the respondents, while referring to the averments made in the reply, submits that all the retiral benefits have been released to the petitioner and nothing is pending towards the petitioner. At the time of retirement, a charge-sheet was pending against the petitioner which was decided on 27.04.2018

and thereafter, the process of preparing pension papers of the petitioner was started. The delay in releasing the retiral benefits of the petitioner is procedural. Therefore, the respondent-Corporation is not liable to pay any interest on the delayed payment of retiral benefits.

6. I have heard learned counsel for the parties and have gone through the relevant documents.

7. Admittedly, the petitioner has retired from service on 31.01.2018 and since the charge-sheet pending against the petitioner was ultimately decided on 27.04.2018 i.e. within three months of his retirement, therefore, the retiral benefits were liable to be released as per rules within a reasonable time. Having not released the retiral benefits of the petitioner in time, hence, the petitioner is held entitled for interest @ 6% per annum.

8. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. 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 retiree 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."

9. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355*,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment 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."

10. In view of the above factual position and settled principles of law, the present petition is allowed and the impugned order dated 20.03.2020 (Annexure P-6) is set aside with a direction to the respondent-Corporation to pay interest @ 6% per annum on the delayed payment of retiral benefits of the petitioner from 28.06.2018 (i.e. after expiry of two months from the date of decision of the charge-sheet) till

the actual date of payment, within a period of 02 months from the date of receipt of certified copy of this order.

18.04.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No