IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-746-2022
Date of decision : 24.04.2024

Baldev Raj ….Petitioner

V/S

State of Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Ms. Akshita Chauhan, D.A.G., Punjab.

Mr. Ashish Verma, Advocate for respondent No.4.

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NAMIT KUMAR, J. (ORAL)

1. In pursuance to order dated 19.12.2023, respondent No.4-Mr. Kamaljit Singh, Executive Officer, Municipal Council, Tarn Taran is present in the Court and filed written statement which is taken on record. Copy supplied.

2. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of mandamus directing the respondents to grant interest @ 18% per annum on the delayed payment of retiral dues to the petitioner.

3. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner was appointed with the respondent-department in the year 1985 as 'Mali'. However, due to health related issues, the petitioner made an application dated 18.04.2016 seeking voluntary retirement which was allowed by the respondent-department

and the petitioner retired as such on 31.08.2016. He served the respondent-department for more than 30 years. When, after a lapse of four years from the retirement of the petitioner, the pension and other retiral benefits were not released to him, the petitioner, through his counsel, served a legal notice dated 20.08.2020 to the respondent-department for releasing his retiral benefits along with interest @ 18% per annum, but to no avail. Thereafter, the petitioner approached this Court by filing CWP No.14863 of 2020 for redressal of his grievance which was disposed of by this Court vide order dated 17.09.2020 with a direction to the respondent-department to take a decision on the legal notice dated 20.08.2020 submitted by the petitioner, by passing a speaking order and after affording opportunity of hearing to the petitioner, preferably within two months from the date of receipt of a copy of the order. Pursuant to the order passed by this Court, the respondent-department passed a speaking order dated 22.03.2021, wherein it has been stated that all the retrial benefits have been released to the petitioner. However, if the petitioner feels that he still have any grievance, he may approach the Executive Officer, Municipal Council, Tarn Taran with due representation thereof and the Executive Officer was directed to satisfy the petitioner in all respect regarding his claim, if any. Meanwhile, the respondent–department had paid a sum of Rs.10,61,617/- against retiral benefits to the petitioner. Hence this petition.

4. Learned counsel for the petitioner submits that although all the retiral benefits have been released to him, however, the same have

been released after a considerable delay. The details of retiral benefits released to the petitioner is as under :-

Head of account	**Amount payable**	**Amount paid**	**Paid vide cheque No./date**
Gratuity	5,34,072/-	5,00,000/-	737486/ 24.11.2020
Leave encashment	26,103/-		
Provident fund	5,01,442/-	5,61,617/-	081642/ 18.12.2020
Total	**10,61,617/-**	**10,61,617/-**	

He submits that the arrears of pension from 08/2016 to 11/2020 amounting to Rs.8,52,934/- has been paid to the petitioner vide cheque No.327995 dated 04.01.2021. He further submits that since the retiral benefits of the petitioner have been released after a considerable delay, therefore, the petitioner is entitled for interest on the same 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 respondent No.4, while referring to the averments made in the reply, submits that all the retiral benefits have already been released to the petitioner and nothing is pending towards the petitioner. The delay in releasing the retiral benefits of the petitioner is not on the part of the respondent-department as the respondent-department time to time issued letters to the petitioner for demanding the required documents from him and his presence for getting his signatures for the pension case was required, however, the petitioner showed his inability to provide the required documents and

could not present himself due to Covid-19. 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 retired from service on 31.08.2016 and his retiral benefits were released in the year 2020/2021. Since either before or after the retirement of the petitioner, no departmental/criminal proceedings were pending against him, therefore, the retiral benefits of the petitioner were required to be released within a reasonable time after his retirement and since there is a delay of more than 04 years in releasing the same, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues.

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. A perusal of file would show that notice of motion in the present case was issued on 01.02.2022 for 19.07.2022 and on 19.07.2022, learned counsel for respondents have put in appearance and sought time for filing the reply. Thereafter, on various dates i.e. 13.12.2022, 08.05.2023, 26.05.2023, 20.07.2023 and 19.12.2023, the case was repeatedly adjourned on the request of learned counsel for respondent No.4 for filing the reply and when on the last date of hearing i.e. 19.12.2023, personal appearance of respondent No.4-Executive Officer, Municipal Council, Tarn Taran was called for today and thereafter, the reply has been filed in the Court today.

11. In view of the above factual position and settled principles

of law, the present petition is allowed and the respondent-department is directed to pay interest @ 6% per annum on the delayed payment of retiral benefits of the petitioner from 01.11.2016 (i.e. after expiry of two months from the date of his retirement) till the actual date of payment, within a period of two months from the date of receipt of certified copy of this order.

12. The facts of the case could not resist this Court to observe that State and its instrumentalities are duty bound to discharge its duty for making payment of retiral dues to its employees in a stipulated period, who gave golden time of their life to the employer. Since the petitioner, who is a Class-IV employee having unblemished service record and have not been paid his retiral dues timely and was constrained to approach this Court twice for the said purpose is entitled for costs due to lackadaisical approach of respondent-department, which filed the reply in the present case after a lapse of more than two years ignoring the importance and effect of the claim of the petitioner, therefore, respondent-Municipal Council, Tarn Taran, is directed to pay Rs.25,000/- as cost of the petitions, to the petitioner, within a period of two months from the date of receipt of certified copy of this order.

24.04.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No