2024:PHHC:034491

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

228

CWP-289-2019 (O&M)
Date of decision : 11.03.2024

Sham Lal Bhatti (since deceased) through his LR ….Petitioner

V/S

Punjab Water Supply & Sewerage Board ….Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Dhiraj Chawla, Advocate for the petitioner.

Mr. Amit Singh Sethi, Advocate for the respondent.

****

NAMIT KUMAR, J. (ORAL)

CM-18555-CWP-2023

Prayer in the instant application filed under Order XXII Rule 3 read with Section 151 of CPC is for bringing on record the legal representative of the petitioner, who has unfortunately died on 08.03.2022.

Notice in the application.

Mr. Amit Singh Sethi, Advocate for the respondent accepts notice and has no objection to the prayer made in the application.

For the averments made in the application, which are supported by an affidavit, the same is allowed and the legal representative of the petitioner as mentioned in para 3 of the application is allowed to bring on record.

Amended memo of parties is taken on record.

CWP-289-2019

1. The petitioner has filed the instant writ petition under Article 226 of the Constitution of India seeking a writ in the nature of mandamus directing the respondent to grant interest @ 18% per annum on the delayed retiral dues.

2. Brief facts of the case are that the petitioner had joined the respondent-Board as Junior Engineer on 16.04.1981. He was further promoted as Assistant Engineer and was subsequently given the current duty charge of Sub Divisional Engineer on 17.10.2008 and retired as such on 31.01.2016, on attaining the age of superannuation. While the petitioner was in service, he along with other officers, was issued charge-sheet dated 28.10.2015. Subsequently, one of the delinquent officer namely Surinder Kumar Ranga, SDE, filed CWP No.11121 of 2016 before this Court and sought directions to finalize the departmental proceedings by considering his reply to the charge-sheet and take a decision, whether to drop the charge-sheet or to proceed further. The said petition was disposed of vide order dated 30.05.2016 directing the competent authority to take a final decision, within three weeks. In pursuance thereto the respondent vide order dated 31.08.2016, exonerated Sh. Surinder Kumar Ranga and Sh. Tirath Ram Kajal, whereas in the case of the petitioner, it was ordered that he be warned and an amount of Rs.1,37,414/- will be deposited by him which will remain withheld for three years. When the retiral dues of the petitioner were not released, he made representation dated 21.06.2017 to the respondent-Board but to no avail. Thereafter, he approached this Court

by filing CWP No.15590 of 2017, which was disposed of by this Court vide order dated 19.07.2017, with a direction to the respondents to look into the grievance of the petitioner made in his representation dated 21.06.2017 and to decide the same, within a period of two months from the date of receipt of certified copy of the order. In pursuant to the order dated 19.07.2017, passed by this Court, the respondent-board has released the retiral dues of the petitioner. Since the retiral dues of the petitioner were released after a considerable delay, therefore, he submitted a representation dated 23.09.2017 to the respondent-Board claiming interest @ 18% per annum, however, no decision has been taken thereon. Thereafter, the petitioner filed CWP No.24991 of 2017, before this Court for claiming interest on the delayed retiral dues which was disposed of vide order dated 07.11.2017, with a direction to the respondent to look into the grievance raised by the petitioner in his representation dated 23.09.2017, and to decide the same within a period of two months, from the date of receipt of certified copy of the order. Since no decision was taken within the time frame stipulated by this Court, the petitioner served a contempt notice dated 15.03.2018, informing the respondent-Board of the directions given by this Court. The respondent-Board vide reply dated 25.05.2018 stated that there is no delay in releasing the dues. Hence this petition.

3. Learned counsel for the petitioner submits that since the retiral benefits of the petitioner were released after a considerable delay, therefore, he is entitled for interest on the delayed payment of retiral dues 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***. The details of payment of retiral dues is as under :-

Sr. No.	**Head**	**Amount (in Rs.)**	**Received on**	**Delay**
1.	CPF (own share)	13,93,836/-	10.10.2016	9 months 10 days
2.	CPF(Board share)	15,43,220/-	30.06.2017	17 months
3.	Gratuity	10,00,000/-	22.09.2017	20 months
4.	Leave Encashment	6,43,106/-	22.09.2017	20 months

4. On the other hand, learned counsel for the respondents submits that the whole amount of retiral dues has been paid to the petitioner and nothing remains to be paid. However, he conceded the fact that since at the time of retirement, two charge-sheets were pending against the petitioner, therefore, some time was consumed for getting no due certificate from the offices where the petitioner had served, therefore, some delay has occurred in releasing the retiral dues to the petitioner attributable to the aforesaid reasons, but the same is not intentional.

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

6. In para 2 of the written statement filed on behalf of the respondent, it has been stated as under :-

> *"2. That the petitioner has suppressed the true facts. He had been served with two different charge sheets regarding the disciplinary proceedings prior to his retirement from service. The first charge sheet was decided by the competent authority vide the order dated 15.11.2016 (Annexure P-2 on the record) and a finding of lapse on the*

part of the petitioner was given in the said order. However, the authority took a lenient view qua him and issued him a warning only for his lapse. It was also directed that an amount of Rs.1,37,414/- be withheld from his outstanding dues of leave encashment for a period of three years and interest shall be paid upon the amount so withheld. It was also held by the competent authority that in case the agency goes him for legal proceedings against the Board, the withheld amount shall be forfeited. The second charge sheet was decided on 06.09.2016 and penalty of Rs.5000/- was imposed upon the petitioner for dereliction of duty. Further, the role of the petitioner came under the scanner for works executed by him during an earlier tenure in the Sub-Division of the Board at Pathankot. Therefore, it is submitted that it is case where multiple charge-sheets had been issued and the role of the petitioner was under the scanner for the works entrusted to him while he was in service. In the peculiar circumstances, some time was consumed in obtaining the no dues clearance from the offices where the petitioner had served. It is humbly submitted that the delay in releasing the payments is attributable to the aforesaid reasons and is not an inordinate delay in the circumstances of the case. On the contrary, the petitioner was the beneficiary of a lenient view taken by the employer during the disciplinary proceedings."

7. The only ground taken by the respondent in the written statement is that due to the fact that two charge-sheets were pending against the petitioner, therefore, some delay has occurred in releasing the retiral benefits of the petitioner. But as the above charge-sheets issued against the petitioner were concluded on 06.09.2016 and

15.11.2016, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues w.e.f. 16.11.2016.

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 principle of law, the present petition is allowed and the respondent is directed to pay interest @ 6% per annum to the legal representative of the petitioner, on the delayed payment of retiral dues w.e.f. 17.11.2016 till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

11.03.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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