**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(209) **CWP-1063-2022**
Date of Decision : October 19, 2024

Bishan Parkash **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Dr. Sumati Jund, Advocate, for the petitioner.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that the respondents have withheld the gratuity of the petitioner despite the fact that on the date when the petitioner retired on attaining the age of superannuation i.e. on 31.05.2019, there were no disciplinary proceedings pending against the petitioner and it was only after a period of more than one and half year, a charge-sheet was served upon the petitioner, which charge-sheet cannot be taken into account for withholding the pensionary benefits of the petitioner keeping in view the settled principle of law settled by this Court in ***CWP No.7340 of 2017 titled as Satbir Singh vs. State of Haryana and others, decided on 31.10.2019.***

2. Learned State counsel concedes the factum that on the date when the petitioner retired, there was no charge-sheet pending against him but submits that once, subsequently a charge-sheet has been issued, the respondents can withhold the gratuity.

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

4. It is a settled principle of law that the retiral benefits can only be withheld in case the power exist with the employer to retain the same under the rules governing the service, under the Rules, it is only in case the disciplinary proceedings are pending against an employee on the date of retirement, the gratuity can be withheld whereas, in the present case, it is a conceded position between the parties that there were no disciplinary proceedings pending against the petitioner hence, as per the judgment of this Court in ***Satbir Singh's case (supra),*** the respondents did not had power to retain the gratuity though, the respondents are within their jurisdiction to decide the disciplinary proceedings in a manner required keeping in view the rules governing the service, which proceedings have been initiated after the retirement of the petitioner.

5. Learned State counsel has not been able to distinguish that the judgment in ***Satbir Singh's case (supra)*** is not applicable upon the facts and circumstances of the present case.

6. Keeping in view the above, the present writ petition is allowed. The respondents are directed to release the gratuity admissible to the petitioner forthwith.

7. At this stage, learned counsel for the petitioner submits that once, the pensionary benefits have not been released to the petitioner within

a period of two months of retirement, keeping in view the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,*** especially when there was not any impediment existing on the date of retirement, the respondents are liable to pay the interest on the delayed release of the pensionary benefits.

8. The said argument is a valid argument.

9. As per the judgment of the Full Bench of this Court in ***A.S. Randhawa's case (supra),*** in case there exist no impediment on the date of retirement, the retiral benefits of the employee are to be released within a period of two months failing which, employee will be entitled for interest. The relevant paragraph of the 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 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."*

10. 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 ***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."*

11. It is held that on the delayed release of the pensionary benefits including the gratuity which is to be released under this order, the petitioner will be entitled for interest @ 6% per annum from the date pensionary became due till the actual release of the same. Let the order be complied with within a period of eight weeks from the date of receipt of certified copy of this order.

12. The present writ petition is allowed in above terms.

October 19, 2024 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

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