IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-1262-2023 (O&M)
Decided on : 15.02.2024

Satnarain . . .Petitioner

Versus

State of Haryana and others . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Shalender Mohan, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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<u>HARSIMRAN SINGH SETHI , J. (Oral)</u>

1. In the present petition, the grievance of the petitioner is that, the petitioner was entitled for the grant of gratuity for his service period of 39 years, 03 months and 17 days instead of 18 years 06 months and 19 days.

2. As per the reply filed by the respondents-State, upon re-consideration by the department concerned, the benefit of gratuity for the period of 39 years 03 months and 17 days has already been granted to the petitioner and copy of deposition of the gratuity amount in the account of the petitioner has been appended as Annexure R-1.

3. Per contra, learned counsel for the petitioner has not been able to rebut the copy of Annexure R-1 with regard to the deposition of gratuity amount in the account of the petitioner.

4. At this stage, learned counsel for the petitioner submits that the petitioner had retired from service on attaining the age of superannuation on 31.07.2018, whereas, the balance of amount of gratuity was paid to the petitioner much after the date of retirement, hence, the petitioner is also entitled for the interest on the delayed amount keeping in view the settled principle of law settled by the Full Bench of this Court in ***<u>A.S. Randhawa</u>***

Vs. State of Punjab and others, 1997(3) SCT 468, wherein, it has been held that in case an employee has not been paid his/her retiral benefits within a period of two months from the date of his/her retirement, where there is no impediment in the release of the same, an employee will be entitled for the grant of interest on the said delayed payments hence, the respondents are under obligation to grant the benefit of interest on the delayed release of the gratuity amount, so that the petitioner does not suffer any prejudice.

5. Learned counsel for the respondents has not been able to rebut the fact that gratuity amount was not paid to the petitioner within a period of two months of retirement without there being any impediment in release of the same.

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

7. It is a conceded position that there was no impediment in the release of the pensionary benefits in favour of the petitioner. That being so, keeping in view the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case there is no impediment, failing which, an employee will be entitled for the grant of benefit of interest on the said delayed release of payments, the delay in releasing the gratuity amount is attributable to the respondents for which the petitioner becomes entitle for the grant of interest so as to compensate his prejudice. 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 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."

8. Further, a Coordinate Bench of this Court in the case of ***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 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."

9. Keeping in view the facts and circumstances noticed hereinbefore, the case of the petitioner is squarely covered by the settled principle of law noticed hereinabove for the grant of benefit of interest on the delayed release of gratuity amount admissible to him. Hence, the petitioner is held entitled for the grant of interest @ 6% per annum on the payment, which has been released to him after a delay of two months of his retirement, from the date the amount became due till the actual payments have been released to him.

10. Let the computation of interest be done by the respondents and amount so calculated shall be paid to the petitioner within a period of **eight weeks** from the date of receipt of copy of this order.

11. Learned counsel for the respondents submits that the contribution which has been released now was relating to the period when the petitioner was working with the Municipal Corporation. In case, that is the fact, let the respondents-department pay the amount of interest which can be recovered from the appropriate corporation in case the Municipal Corporation is liable for the delay in releasing the gratuity amount to the petitioner.

12. The present petition is allowed in above terms.

13. Pending civil miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

15.02.2024
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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: ~~Yes~~/No