

Learned counsel for the petitioner further submits that the petitioner is not required to deposit the TDS rather the respondent-State, was required to deduct the TDS hence, putting the said blame upon the petitioner is arbitrary and illegal.

Learned counsel for the respondent-State submits that the petitioner was required to deposit certain amount with the Income Tax Department, which the petitioner had not deposited due to which some fine was imposed upon the department hence, the benefits admissible to the petitioner after retirement were not released.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is not a case that the petitioner was being proceeded against the departmentally by issuing any chargesheet for any default on the part of the petitioner while discharging the duties of the post. Once, there is no chargesheet issued to the petitioner, merely on the ground that the petitioner did not deposited the TDS with the Income Tax Department due to which his pensionary benefits were withheld, is not a valid ground. In the absence of any disciplinary proceedings pending against the petitioner at the time of retirement, the respondents were under obligation to release all the pensionary benefits 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**, wherein it has been held that where there is an inordinate delay 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.”

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.”

Keeping in view of above, the present petition is allowed. The respondents are directed to release all the pensionary benefits forthwith and to grant the petitioner the regular pension instead of provisional pension.

The petitioner will be entitled for interest including the arrears of pension any, as well as on delayed release of the pensionary benefits @ 6% per annum from the date the pensionary benefits became due till the date actual payment has been made.

Let the amount entitled alongwith interest under this order be calculated and released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Pending application, if any, also stands disposed of.

19-10-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE:	Whether speaking:	YES/NO
	Whether reportable:	YES/NO