IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220

CWP-1721-2019 (O&M)
Date of decision : 25.07.2024

Jaswinder Singh .....Petitioner

V/S

The Punjab State Cooperative Bank Limited and another ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. R.S. Dhillon, Advocate for the petitioner.

Mr. T.V.S. Lehal, Advocate for respondent No.1.

Respondent No.2 was proceeded ex parte vide order dated 03.02.2020.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the impugned order dated 16.10.2018 (Annexure P-6), passed by respondent No.2, vide which the claim raised by the petitioner, vide representation dated 15.01.2018 (Annexure P-4), has not been considered and other benefits due towards the petitioner on his retirement have been declined. Further seeking a writ in the nature of mandamus, directing the respondents to release all the retiral benefits like gratuity, leave encashment, pension, CPF etc. along with interest @ 18% per annum.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner had joined the services of the Cooperative Bank on 08.08.1978 as Clerk-cum-Cashier at Hoshiarpur

Branch. In his service tenure, he got timely promotion to the post of Accountant, Assistant Manager and Manager. He was also reverted back on the post of Assistant Manager from the post of Manager due to some disciplinary proceedings. Earlier, the service tenure of the petitioner was increased for one year. But the same was withdrawn, vide resolution No.22 dated 09.11.2016 of the authorized Committee of the Bank and the petitioner retired from the service on 30.11.2016, vide office order dated 29.11.2016, which clearly states that the dues for which the petitioner is entitled after his retirement shall be released only after the decision of disciplinary proceedings. After his retirement, a charge-sheet dated 30.01.2017, was issued to the petitioner by the Head Office containing allegations of verification of incorrect entries and interference with accounts of the account holders. The petitioner filed reply to the said charge-sheet. As per the inquiry report, the abovesaid allegations levelled in the charge-sheet were proved to be correct and on 21.11.2017, the Head Office issued a show cause notice to the petitioner for stopping his further annual increment. Thereafter, the Disciplinary Action Committee vide order dated 06.02.2018, dropped the above-said charge-sheet. However, the retiral benefits of the petitioner has not been released. The petitioner has also made representations to the respondents for the release of his retiral benefits but to no avail. Thereafter, the petitioner had approached this Court by filing CWP No.13503 of 2018, seeking directions to the respondents for the release of his retiral benefits. The said writ petition was disposed of by this Court, vide order dated 25.05.2018, with a direction to the respondent to take a decision on the representation dated 15.01.2018 submitted by the petitioner, by passing a speaking order and after affording opportunity of hearing, preferably within three months from the date of receipt of certified copy of the order. Pursuant to the said order, respondent No.2 has passed the impugned order dated 16.10.2018, whereby in order to safeguard the interest of the bank to recover the financial loss suffered at the hands of petitioner, the payment of gratuity and leave encashment amount have been ordered to be stopped till further order. Aggrieved against the said order, the present petition has been filed.

3. Learned counsel for the petitioner submits that the petitioner has retired from service on 30.11.2016 and the charge-sheet dated 30.01.2017 issued against him was dropped on 06.02.2018. Despite that the petitioner has received his retiral dues after considerable delay. He further submits that the petitioner has received total amount of Rs.20,43,090/-. Out of which amount of Rs.17,77,090/- was received on 05.11.2020 and amount of Rs.2,66,000/- was received on 14.02.2022. An affidavit dated 30.10.2023 of the petitioner to this effect has been filed in Court today which is taken on record. He further submits that since there is a considerable delay in releasing the retiral dues of the petitioner, therefore, the petitioner is entitled for interest on the same.

4. Per contra, learned counsel for respondent No.1 has opposed the claim of the petitioner by stating that since all the retiral dues have been released to the petitioner, therefore, the present writ petition has been rendered infructuous.

5. I have heard learned counsel for the petitioner and respondent No.1 and have gone through the relevant documents.

6. No reply on behalf of respondent No.2, the contesting respondent, has been filed and vide order dated 03.02.2020, respondent No.2 was proceeded ex-parte. Thereafter, an application bearing No.CM-10265-CWP-2022 has been filed by the applicant/respondent No.2 for recalling of the order dated 03.02.2020, wherein notice was issued to the counsel opposite which is still pending. No one was present on behalf of the applicant/respondent No.2 on the last date of hearing i.e. 07.02.2024 and today also the position is the same.

7. Admittedly, the petitioner has retired from service on 30.11.2016 and the charge-sheet dated 30.01.2017 issued against him, after his retirement, was dropped by the respondents, vide order dated 06.02.2018. Despite that the retiral dues of the petitioner have been released after a lapse of more than 05 years. Since there is a considerable delay in releasing the payment of retiral dues to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

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 principles of law, the present petition is allowed and the respondents-Bank are directed to pay interest @ 6% per annum to the petitioner, on the delayed payment of retiral dues, w.e.f. 01.03.2017 (i.e. after three months of his retirement) till the actual date of payment, within a period of three months from the date of receipt of certified copy of this order.

11. Pending application(s), if any, shall stands disposed of accordingly.

25.07.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No