

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228+109

CWP-1568-2023
Date of Decision : 31.01.2024

Malkit SinghPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Umesh Kumar Kanwar, Advocate for the petitioner.
Mr. Ajit Singh Natt, A.A.G., Punjab.
Mr. H.K Aurora, Advocate for respondents No.3 and 4.

NAMIT KUMAR, J. (ORAL)

CM-1522-CWP-2024

Prayer in the instant application filed under Section 151 of CPC is for placing on record reply filed on behalf of respondents No.3 and 4.

Allowed as prayed for subject to all just exceptions.

CWP-1568-2023

1. The instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India seeking a writ of mandamus directing the respondents to release the retiral benefits of the petitioner such as leave encashment, gratuity, DA and remaining amount of Provident Fund.
2. It is the case of the petitioner that he retired from the office of Municipal Corporation, Phagwara on 30.06.2022 and when the retiral

benefits were not released to the petitioner, he submitted representation dated 01.09.2022 (Annexure P-3) to respondents No.3 and 4 and since no response was received by the petitioner on the said representation, therefore, he has approached this Court by filing the instant writ petition for releasing his retiral benefits.

3. On issuance of notice of motion, reply has been filed on behalf of respondents No.3 and 4, wherein it has been stated that pension of the petitioner was sanctioned by the Municipal Corporation, Phagwara vide office order dated 21.10.2022 and he is regularly receiving the same and other retiral benefits have also been released to the petitioner.

4. Learned counsel for the petitioner submits that although during the pendency of the present petition, all the retiral benefits have been released by the respondents, however, the same have been released after a considerable delay. He submits that the retiral benefits of the petitioner have been released, as per chart annexed with the reply as Annexure ‘A’, on the following dates :-

Date	Amount	Remarks
10.01.2023	Rs.1,76,809/-	Gratuity
10.01.2023	Rs.1,13,507/-	Leave encashment
01.08.2023	Rs.14,86,044/-	Balance amount of Gratuity
21.08.2023	Rs.46,992/-	Balance amount of G.P.F.
11.09.2023	Rs.9,54,013/-	Balance amount of G.P.F.

5. On the other hand, learned counsel for respondents No.2 and 3 submits that all the retiral benefits have been released to the petitioner and nothing is due to be paid to him. He submits that a sum of

Rs.2,00,000/- which was taken by the petitioner as an advance G.P.F. has been adjusted while releasing the total amount of G.P.F. He further submitted that since the petitioner had remained posted in various Corporations/Councils such as Municipal Corporation, Pathankot, Municipal Council, Dasuya and Municipal Corporation, Amritsar, in his entire service career, therefore, some delay has occurred for collecting their share.

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

7. It is a well settled law that the retiral benefits of the employee is his property and the same cannot be withheld without any justifiable reasons.

8. It is an admitted fact that no proceedings were pending against the petitioner before or after his retirement, therefore, he is entitled for the release of his retiral benefits atleast within a period of 03 months from the date of his retirement i.e. upto 30.09.2022. However, the petitioner has received his retiral benefits after a stipulated period of 03 months.

9. 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.”

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 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.”

11. In view of the above factual position, this Court is of the view that the petitioner is entitled for grant of interest @ 6% per annum on the delayed payment on expiry of three months from the date of retirement of the petitioner to actual date of payment, which shall be paid by respondent No.3 after calculating the same, within a period of 03 months from the date of receipt of certified copy of this order.

12. The present petition is disposed of in the above terms.

31.01.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No