

**CWP-4946-2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(290)****CWP-4946-2024****Date of Decision : December 17, 2024****Prabhjit Singh Kalra****.. Petitioner****Versus****State of Punjab and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. K.S. Bassi, Advocate, for the petitioner.
(joined through VC)

Mr. Swapan Shorey, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that though the petitioner has already retired from service but his pensionary benefits have not been released, which is causing prejudice to him hence, the respondents be directed to release the pensionary benefits of the petitioner along with interest with arrears.

2. Upon notice of motion, the respondents have appeared though the reply has not been filed despite various opportunities granted.

3. Learned counsel for the respondents submits that as per his instructions, the petitioner was granted certain promotions on the basis of qualifications which were submitted by the petitioner though, it was found that the said qualifications, according to the Department, were not valid to

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seek promotion and the Department was in process of withdrawing the said promotion but the petitioner has approached this Court by filing CWP No.26535 of 2015 wherein, a direction has been given to the State not to pass any order causing prejudice to the petitioner.

4. Learned counsel for the respondents further submits that the said writ petition is still pending adjudication.

5. Learned counsel for the petitioner submits that petitioner is ready to give an undertaking that in case, the decision in CWP-26535-2015 goes against the petitioner and the promotion of the petitioner is to be reviewed and the respondents review the same so as to reduce the pay of the petitioner and to reduce his pensionary benefits consequently, the benefits which are extended to the petitioner upon retirement, can be revised and the petitioner will refund the excess amount if any, paid to him.

6. Learned counsel for the petitioner further submits that for the last more than two and half years, his pensionary benefits have been withheld and that too in the absence of any order authorizing the respondents to withhold the pensionary benefits hence, the respondents be directed to release the pensionary benefits admissible to the petitioner keeping in view the post and the pay which the petitioner was availing at the time of his retirement subject to the outcome of CWP-26535-2015.

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

8. Once, as of now, there is no order reverting the petitioner from any post and the said litigation is still pending before this Court in CWP No.26535 of 2015 so as to decide whether, the promotion granted to the

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petitioner is valid or not hence, the respondents cannot withhold the pensionary benefits to the petitioner for all times to come so as to await the decision of the said litigation especially when two and half years have elapsed since the petitioner has retired.

9. Let the respondents release all the pensionary benefits admissible to the petitioner keeping in view the post which the petitioner held at the time of retirement and the pay which the petitioner was getting at the time of retirement. However, the grant of the said pensionary benefits will be subject to the outcome of CWP-26535-2015.

10. Learned counsel for the petitioner has undertaken that in case, after the decision in CWP-26535-2015, it is found that the petitioner has been paid more than his entitlement, he will refund the excess amount to the respondents and petitioner will submit an undertaking to the said effect before the respondents.

11. That is the very fair stand taken by the learned counsel for the petitioner hence, the respondents are directed to release all the pensionary benefits to the petitioner forthwith keeping in view the post held by the petitioner at the time of his retirement and the salary being drawn by him at the time of his retirement. However, the same will be subject to the outcome of CWP-26535-2015 and undertaking to be submitted by the petitioner. In case, after the decision in CWP-26535-2015, it is found that the petitioner has availed more pensionary benefits than his entitlement, the respondents will re-calculate the same and inform the petitioner, who will deposit the excess amount received by him if any, within a period of three months from the date he received such notice.



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12. As of now, there is no valid justification to withhold the pensionary benefits of the petitioner merely on the ground that the Department was in process of passing an order reverting the petitioner. Once, there is no order passed even though it is because the Department has been restrained by this Court, the respondents should have released all the benefits admissible to the petitioner subject to the outcome of the writ petition i.e. CWP-26535-2015.

13. 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 and used 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.”

14. Hence, the respondents will release all the pensionary benefits admissible to the petitioner along with interest @ 6% per annum starting from 01.05.2022 onwards till the actual payment of the same. Let the present order be complied with within a period of eight weeks from the date of receipt of copy of this order.



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15. The present writ petition is disposed of in above terms.

December 17, 2024

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No