

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

241

CWP-2709-2023 (O&M)
Decided on : 25.01.2024

Baljit Singh

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Balwinder Singh Sudan, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. The grievance being raised by the petitioner in the present petition is that though the petitioner has already retired from the service on 31.03.2022, but, the petitioner has not been granted his leave encashment immediately within the period of 02 months of retirement, which action on the part of the respondents is causing prejudice to the petitioner.

2. Learned counsel for the petitioner submits that 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**, 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 leave encashment with interest on the delayed release of the same, so that the petitioner does not suffer any prejudice.

3. Learned counsel for the respondents submits that though it is a conceded fact that leave encashment was not paid to the petitioner within a

period of two months of retirement without there being any impediment in release of the same but the same could not be released keeping in view the internal communication between the Administrative Department and the Office of Accountant General. Learned counsel for the respondents submits that certain objections were being raised by the Office of Accountant General, Haryana and it took time to rectify the same.

4. Learned counsel for the respondents further submits that though it was not a case of raising any objection but despite the fact that all the formalities were to be completed by the Administrative Department, the approval by the office of Accountant General, Haryana was not given so as to release the leave encashment in favour of the petitioner hence, the claim of the petitioner for the grant of interest on the delayed payment of leave encashment may kindly be declined.

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

6. 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 leave encashment 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 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.”

7. With regard to the argument raised by the learned State counsel that the leave encashment could not be released in the favour of the petitioner as the same was not approved by the office of Accountant General, Haryana despite the fact all the formalities were completed by the respondents-department, it may be noticed that the Office of the Accountant General, Haryana is the part of the respondents administration. Once, the matter remained pending with the two departments of Government of Haryana which has caused prejudice, the claim of the petitioner for grant of the interest which is covered keeping in view the settled principle of law, cannot be declined, hence, the arguments being raised to justify the delay in release of the leave encashment in favour of the petitioner will not dis-entitle

the petitioner for the grant of benefit of interest.

8. Further, a Coordinate Bench of this Court in 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 leave encashment 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. It may be noticed that in case the administrative department has any claim with regard to the recovery of any interest from the office of Accountant General, the same will be settled between the parties.

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

25.01.2024
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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: ~~Yes~~/No