IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-2944-2023
Date of decision : 03.09.2024

Jaswinder Singh .....Petitioner

V/S

Punjab Mandi Board and another ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Nirmal Singh Kandhola, Advocate for the petitioner.

Mr. Guninder Singh Brar, Advocate for the respondents.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to release the interest @ 18% per annum on the delayed payment of gratuity.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner has retired from the service of the respondents on attaining the age of superannuation on 30.07.2020. After his retirement, the petitioner was given retiral benefits but the gratuity amount was not released because a condition was imposed in the No Due Certificate issued vide office order dated 29.07.2020 to the effect that No Due Certificate is being linked with the complaint dated 06.07.2000 of the Chairman Market, Committee, Ludhiana and complaint dated 02.07.2020 received in the Establishment Branch. A Committee, comprising of Additional Deputy Commissioner, Khanna, Assistant Deputy Commissioner of Police, Ludhiana-I and Sub

Divisional Magistrate, Ludhiana (East), was constituted by the Deputy Commissioner, Ludhiana to inquire into the abovesaid complaints. The said Committee after conducting inquiry, gave its report dated 19.03.2021 stating that the allegations levelled against the petitioner are not proved and it was recommended to file the complaints. Thereafter, respondent No.1 passed order dated 05.08.2022, whereby the abovesaid complaints were filed and condition imposed in the No Due Certificate issued to the petitioner was deleted. After passing of said order, the gratuity amount was released to the petitioner on 08.08.2022 without any interest on the delayed payment. Thereafter, the petitioner served a legal notice dated 24.02.2022 to respondent No.2 for grant of interest on the delayed payment of gratuity amount which was replied by respondent No.2, vide letter dated 28.10.2022, however, the said letter is silent about making payment of interest on the delayed payment of gratuity amount. Hence, this petition.

3. Pursuant to notice of motion, reply on behalf of the respondents has been filed, wherein it has been stated as under :-

> *"xx xx xx xx xx*
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> *4. That the true facts involved in the present case are at the time of retirement i.e 30.07.2020, the petitioner was posted as District Mandi Officer at Ludhiana and there were two complaints dated 02.07.2020 and 06.07.2020 were pending against him.*
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> *5. That as per the first complaint dated 02.07.2020, which was given by one Kaka Singh to the office of respondent no.2, the allegations against the petitioner were that the petitioner is illegally giving contracts to his near and dear, without following the due process of publishing the same in newspaper and by putting the same only on the notice board of his office. Thereafter second complaint dated 06.07.2020 was forwarded by the Chairman Market Committee Ludhiana to the respondent no.1 with the*

allegations that the petitioner is collecting illegal parking fee from the general public and harassing the vendors. As the petitioner was misusing his position, therefore keeping in view the seriousness of the allegations and following the due process, only the provisional pension was released to the petitioner and further some of his retiral benefits were withheld.

6. That thereafter the committee constituted by the Deputy Commissioner, Ludhiana, after completing the investigation regarding the matter, sent its report through letter No. 430/Reader Dated 19.03.2021 to the Board. This report has been received from the Office of the Deputy Commissioner, Ludhiana at the Head Office Punjab Mandi Board on 12.11.2021 (Annexure-R-1/1). After the completion of this investigation by the Joint Investigation Committee, the following suggestions were sent:-

a. The rotation of the officers and supervisory staff concerned for the collection of parking fee should be changed every 3 months.

b. That CCTV should be installed at all parking gates.

c. Daily traffic audit by installing cameras should be done on a fixed date of every month under the supervision of the representative of the concerned Secretary Market Committee and District Market Officer so that any kind of lapse in recovery can be prevented.

d. The audit is recommended to be conducted after every 3 months by senior officials deemed competent by Hon'ble Secretary Marketing Board Punjab.

7. That keeping in view the reports of the committee constituted by the Deputy Commissioner, Ludhiana this office after following the due process filed all the complaint against the petitioner vide order 859 (2022) dated 05.08.2022 and the withheld gratuity amount was released to the petitioner after three days of the order i.e 12.08.2022.

8. That pending complaints against the petitioner cannot be declared false or baseless without proper investigation and as soon as the investigation was complete the competent authority after following the due process filed all the complaint against the petitioner vide order 859 (2022) dated 05.08.2022.

xx xx xx xx xx"

4. Learned counsel for the petitioner submits that the petitioner has retired from service on 30.07.2020 and payment of gratuity amounting to Rs.20,00,000/- has been made to him on 12.08.2022 i.e. after a lapse of more than 02 years. He submits that since there is a considerable delay in releasing the gratuity amount, therefore, the petitioner is entitled for interest on the same.

5. Per contra, learned counsel for the respondents submits that at the time of retirement of the petitioner, two complaints were pending against him due to which his gratuity was withheld by the respondents and as soon as those complaints were filed, the respondents released the gratuity amount to the petitioner.

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

7. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 30.07.2020 and due to pendency of complaints dated 02.07.2020 and 06.07.2020 against the petitioner, his gratuity was withheld by the respondents. When the allegations levelled against the petitioner in the abovesaid complaints were not proved, both the complaints were filed by respondent No.1 on the recommendation of the Committee constituted to enquire into the abovesaid complaints. Thereafter, payment of gratuity amounting to Rs.20,00,000/- has been made to the petitioner on 12.08.2022. Since the delay occurred in releasing the gratuity of the petitioner due to pendency of complaints dated 02.07.2020 and 06.07.2020 which were filed lateron as the allegations leavelled against the petitioner in the said

complaints were not proved, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of gratuity amount.

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 respondent-Board is directed to pay interest @ 6% per annum to the petitioner, on the delayed payment of gratuity, w.e.f. 01.10.2020 (i.e. after two months of his retirement) till the actual date of payment, within a period of 02 months from the date of receipt of certified copy of this order.

03.09.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No