



CWP-4853-2021

-1-

236 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4853-2021

Date of decision: 10.05.2024

NARINDER MOHAN

...PETITIONER

VERSUS

PUNJAB STATE POWER CORPORATION
LTD. THROUGH ITS CHAIRMAN-CUM-MANAGING
DIRECTOR AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr.S.K.Rattan, Advocate for the petitioner.

Mr. Tejasvi Sheokand, Advocate for
Ms. Amrita Garg, Advocate for the respondents.

NAMIT KUMAR ,J. (ORAL)

1. The instant petition has been filed by the petitioner seeking a writ of certiorari for quashing the impugned letter dated 14.06.2018 (Annexure P-8), by which the pay of the petitioner has been ordered to be reduced and refixed after retirement and order dated 24.12.2018, whereby an amount of Rs.2,29,710/- has been recovered from the gratuity amount of the petitioner after his retirement.
2. Learned counsel for the petitioner submits that the petitioner retired from service on attaining the age of superannuation on 31.12.2017 and after his retirement, a sum of Rs.2,29,710/- has been recovered without passing any specific order and without issuing any show cause notice or granting an opportunity of personal hearing.
3. On pursuance of notice of motion, short reply by way of affidavit has been filed on behalf of the respondents, wherein it has been stated as under:-

"5. That inadvertently, after his appointment as Junior Meter Reader, the pay of the petitioner was wrongly fixed after giving two promotional increments, despite the



fact that his posting as JMR was to be treated as fresh appointment and not promotion.

7. *That in this way, on the date of his retirement i.e. 31.12.2017, the petitioner was inadvertently and unintentionally getting the benefit of one additional increment. As such, when the service book of the petitioner was sent to the office of AO/EAD PSPCL, Patiala for audit, it was constrained to raise an objection vide office memo no.5976 dated 14.06.2018, clarifying the position that the appointment as Junior Meter Reader was to be considered as fresh appointment and not promotion.*

8. *That accordingly, the pay of the petitioner was re-fixed from the date of his joining as Junior Meter Reader i.e. 20.06.2000 and it was discovered that a recovery of Rs.2,29,710/- was liable to be made from him as against the additional promotional increments given to the petitioner, to which he was not entitled. The said recovery was made from the petitioner by way of deduction from the gratuity payable to him."*

4. Learned counsel for the respondents submits that during the pendency of the present petition, the said amount of Rs.2,29,710/- has already been refunded back to the petitioner vide cheque No.772344 dated 26.09.2023, during the pendency of the present petition, therefore, nothing survives in the present petition.

5. However, counsel for the petitioner submits that since, the said amount has kept by the department till 26.09.2023, therefore, he is entitled for the grant of interest on the said amount. During the course of hearing, learned counsel for the petitioner confines his prayer qua grant of interest on the recovered amount of gratuity.



CWP-4853-2021

-3-

6. I have heard learned counsel for the parties and perused the record.

7. 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.”

8. Apart from this, a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355**, has 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



CWP-4853-2021

-4-

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. Admittedly, the petitioner has retired on attaining the age of superannuation on 31.12.2017 and respondents-Corporation was bound to release the retiral benefits on the date of retirement or immediately thereafter. However, the amount of Rs.2,29,710/- was deducted from the gratuity of the petitioner which has been refunded back on 26.09.2023 after a period of more than 05 years i.e. during the pendency of the present petition. Therefore, the petitioner is held entitled to the grant of interest @ 6% per annum on the said amount.

10. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to the respondents to pay interest @ 6% per annum to the petitioner, on the amount of Rs.2,29,710/- which was deducted from his gratuity after his retirement, w.e.f. 01.03.2018 (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.

10.05.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No