IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

257

CWP-3199-2023
Date of decision : 05.08.2024

V.K. Singh .....Petitioner

V/S

State of Punjab and another ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Shubreet Kaur, Advocate
for the petitioner.

Ms. Saguna Arora, A.A.G. Punjab.

Mr. Ajay Pratap Singh Sehgal, Advocate
for respondent No.2.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to release the retiral benefits of the petitioner, along with interest.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner joined the Punjab Water Supply and Sewerage Board on contract/work charge basis in the year 1984. He was appointed as Surveyor on lump sum salary in the year 1986 and regularized as such in the year 2001. Thereafter, he was promoted as a Junior Engineer on 27.06.2012. During his service, a memo of charges dated 15.02.2021 was issued against him vide letter dated 03.03.2021. The petitioner sent his reply to the charges levelled against him vide

letter dated 17.03.2021. Meanwhile, he attained the age of superannuation and retired on 30.09.2021 as Junior Engineer from Punjab Water Supply and Sewerage Board, Sub Division Barnala. Thereafter, a retired Additional Sessions Judge was appointed as Enquiry Officer for conducting enquiry in the abovesaid case who submitted his report dated 20.01.2022. The petitioner was informed regarding the enquiry report vide letter dated 08.02.2022 and was directed to submit his rebuttal within 15 days. The petitioner without any delay submitted his rebuttal vide letter dated 18.02.2022. Even after passing of several months, the case was not concluded and due to pendency of the same, the respondent-Board did not release the retiral benefits of the petitioner. Thereafter, the petitioner made several representations dated 06.06.2022, 04.08.2022, 10.08.2022, 21.09.2022 and 30.12.2022 to respondent No.2 for releasing his retiral benefits but no action was taken on the same. On 23.01.2023, the petitioner was paid only C.P.F. amount of Rs.11,48,891/- after an inordinate delay of 01 year, 03 months and 23 days from his retirement. Hence, this petition.

3. Pursuant to notice of motion, short reply on behalf of respondent No.2 has been filed in the Court today which is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that the petitioner has retired on attaining the age of superannuation on 30.09.2021 and even after filing the rebuttal to the inquiry report on 18.02.2022, the respondent-Board unnecessarily delayed the inquiry and

concluded the same vide order dated 13/21/09.2023 and thereafter released the retiral benefits of the petitioner. Since there is a considerable delay in releasing the retiral benefits to the petitioner, therefore, the petitioner is entitled for interest on the same. The retiral benefits have been released to the petitioner in the following manner :-

Sr. No.	Particulars	Amount (Rs.)	Date
1.	CPF	11,48,891/-	23.01.2023
		10,05,410/-	07.06.2024
2.	Gratuity	8,11,048/-	05.06.2024
3.	Leave Encashment	4,02,648/-	05.06.2024

5. Per contra, learned counsel for contesting respondent No.2, while referring to the contents of the reply filed on behalf of respondent No.2, submits that the delay occurred in releasing the pensionary benefits to the petitioner is entirely procedural and not intentional as at the time of retirement of the petitioner, a departmental enquiry was pending against him which was concluded on 13/21.09.2023. In the said enquiry, the petitioner was found guilty and the Board after taking a lenient view ordered that 2% amount or Rs.50,000/- (whichever is less) is to be recovered from the gratuity and leave encashment due to the petitioner. Since all the retiral benefits have been released to the petitioner, therefore, the instant petition has been rendered infructuous.

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 30.09.2021 and CPF amount of

Rs.11,48,891/- was released to him on 23.01.2023 and further payment of Rs.10,05,410/- was made on 07.06.2024 and despite the fact that the departmental inquiry pending against the petitioner was concluded on 13/21.09.2023, his gratuity and leave encashment were released on 05.06.2024 after a delay of more than 08 months. Since there is a considerable delay in releasing the payment of retiral benefits to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

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 disposed of with a direction to the respondent-Board to pay interest @ 6% per annum to the petitioner on the delayed payment of CPF w.e.f. 01.12.2021 (i.e. after two months from the retirement) till the actual date of payment and on the delayed payment of gratuity and leave encashment w.e.f. 14.11.2023 (i.e. after two months from the date of conclusion of departmental enquiry) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

05.08.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No