230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4158-2019 (O&M)
Date of Decision : 28-11-2024

JAGDISH PARSHAD ....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harbans Lal Sharma, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG Punjab.

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HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that the petitioner attained the age of superannuation on 31.07.2018 and he was claiming the benefit of extension in service and ultimately, the said benefit of extension was denied and vide order dated 05.10.2018 (Annexure P-2), the petitioner was retired retrospectively from the due date i.e. 31.07.2018 but his pensionary benefits were not released and as the same were withheld without any valid justification hence, as per the petitioner, the respondents are liable to pay interest on the delay release of the pensionary benefits along with interest.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that after the retirement, a chargesheet was served upon the petitioner in December, 2018 hence, some of the penisonary benefits were withheld keeping in view the said disciplinary proceedings hence, the petitioner is not entitled for interest.

Learned counsel for the petitioner submits that even in the said disciplinary proceedings, the petitioner has been exonerated and the charges have been dropped hence, the said chargesheet cannot cause prejudice even otherwise.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a conceded fact that on 31.07.2018, there were no proceedings pending against the petitioner so as to withhold his pensionary benefits and the position for the release of the pensionary benefits is to be seen on the date of retirement and any subsequent disciplinary proceedings initiated, will not give jurisdiction to the respondents to withhold the pensionary benefits.

Even otherwise, the chargesheet which was issued to the petitioner subsequent to his retirement has also been dropped. That being so, the petitioner cannot be caused prejudice due to the chargesheet which was served to him after his retirement. Once, the respondents could not prove the allegations due to which the pensionary benefits were withheld, the respondents are liable to be directed to grant interest on the delayed release of the pensionary benefits.

A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** has held that where there is an inordinate delay 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 retirer 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 front 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."*

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 **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."*

Learned counsel for the petitioner submits that though, the petitioner attained the age of superannuation on 31.07.2018 but under the antecendents of the grant of extension, the petitioner was allowed to work upto 05.10.2018 and the salary from 01.08.2018 till 05.10.2018 has also not been paid to the petitioner.

Learned counsel for the respondent-State has also not been able to justify as to why firstly, the petitioner was allowed to work despite having retired but once, the petitioner has actually discharged the duties as his order of retirement was passed on 05.10.2018 with retrospective effect, the petitioner also becomes entitled for the salary from 01.08.2018 till 05.10.2018. Let the said salary be paid to the petitioner.

Keeping in view of above, as the pensionary benefits of the petitioner as well as release of the salary upto 05.10.2018 have been delayed, the petitioner is found entitled for interest @ 6% per annum on the delayed release of the pensionary benefits from the date the petitioner retires i.e. 05.10.2018 till the actual payment of the same.

Let the salary and the amount of interest for which the petitioner is entitled for be calculated and released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Present petition is allowed in above terms.

Pending application, if any, also stands disposed of.

28-11-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO