IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(443) **CWP-1662-2001**
Date of Decision : January 05, 2024

Jage Ram **.. Petitioner**

Versus

State of Haryana and another **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the petitioner is claiming the grant of interest on the delayed release of the pensionary benefits.

2. As per the averments made in the petition, the petitioner had retired from service on 31.12.1995 but his pensionary benefits were not released expeditiously due to which, the petitioner suffered prejudice and the petitioner by way of the present petition, is seeking the grant of interest on the delayed release of the pensionary benefits.

3. While issuing notice of motion on 02.02.2001, the following order was passed by the Division Bench:-

> *" Petitioner is claiming interest on payment of pensionary dues after his retirement on six heads mentioned in paragraph 3 (wrongly typed as paragraph 2) of the writ petition. Payment under the first four heads was made from*

time to time upto May, 1997. More than three years period prescribed for limitation even for purpose of recovery by way of civil suit has expired. We are, therefore, not inclined to entertain the writ petition in respect of the said 4 heads of claim. So far as the remaining two heads namely commutation and gratuity are concerned, the claim for payment of interest is still within limitation. To this limited extent, we would entertain the petition."

4. As per the order reproduced hereinbefore, the claim of the petitioner for the grant of interest on the commutation of pension and the gratuity is to be considered by this Court.

5. In paragraph 3 of the petition (wrongly typed as paragraph 2), the petitioner has mentioned that commutation of pension was released to him on 13.02.1998 and the gratuity was released to him on 20.11.1998. The said fact has been accepted by the respondents while filing the reply. The respondents in their defence have mentioned that no due certificate was issued to the petitioner by the Directorate on 06.03.1998 hence, the pensionary benefits could not be released to him immediately upon the retirement.

6. I have heard learned counsel for the respondents and have gone through the record with his able assistance.

7. As per 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***, the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment. 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."

8. In the present case, nothing has come on record to show that there was any impediment in the release of the pensionary benefits. The only objection being taken by the respondents is that no due certificate was received in the year 1998. It may be noticed that no due certificate is to be issued by the Department concerned and if the same is withheld by the employer without any valid justification, the employee cannot be prejudiced hence, withholding of the pensionary benefits for the non-grant of no due certificate, the liability to pay the interest cannot be escaped. Hence, the petitioner is entitled for the grant of interest on the commutation of pension as well as gratuity which has been released to him.

9. 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."

10. Keeping in view the above, the present writ petition is allowed qua the two components of the pensionary benefits i.e. commutation of pension as well as gratuity. The petitioner is held entitled for the grant of interest @ 6% per annum from the date the abovementioned two benefit accrued till the actual payment of the same. Let the amount for which the petitioner is entitled as interest be released to him within a period of eight weeks from the receipt of certified copy of this order.

January 05, 2024 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

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