2024:PHHC:066132

237 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5755-2021 (O&M)
Date of decision: 10.05.2024

KIRPAL SINGH ...PETITIONER

VERSUS

STATE OF PUNJAB AND ORS. ...RESPONDENTS

<u>CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR</u>

Present: Mr.Sukhmandeep Singh, Advocate for the petitioner.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Arunjeet Singh Kakkar, Advocate for respondent No.5.

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<u>NAMIT KUMAR ,J. (ORAL)</u>

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release the pension, gratuity, leave encashment and all other retiral benefits, along with interest @ 18% on the delayed payment from the date of his retirement.

2. The grievance raised in the present petition is that the petitioner retired from service, on attaining the age of superannuation, on 31.12.2019. However, his retiral dues were not paid, therefore, the instant petition has been filed.

3. On issuance of notice of motion, separate replies have been filed on behalf of respondent Nos.1 to 3 and 4. In reply filed by respondent Nos.1 to 3, it has been stated as under:-

> *"xx xx xx xx xx*
> *That the pension case of the petitioner was received on 07.10.2020 from the office of Executive Officer, Municipal Council, Jandiala Guru. The answering*

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respondent sanctioned pension of the petitioner vide Pension Payment Order No.3052 and arrear of pension w.e.f. 01.01.2020 to 30.09.2020 amounting to Rs.3,28,452/- (Rs. Three lakh Twenty Eight thousand four hundred and Fifty Two only) was paid to the petitioner along with the pension of the month of November, 2020 by transferring the same into the bank account of the petitioner. From October, 2020 regular pension is being paid to the petitioner every month. It is further submitted that in view of the facts stated above there is no delay on the part of answering respondent in sanctioning of pension of the petitioner and in releasing the arrear of pension.

xx xx xx xx xx"

5. In reply filed by respondent No.4, it has been stated as under:-

" xx xx xx xx

4. That it is again reiterated that the answering respondent has already released the retiral dues of Gratuity & Leave Encashment to the petitioner. For the sake of brevity, it is submitted that earlier the ceiling limit for payment of gratuity was from Rs. 5,00,000 to Rs. 10,00,000/-. Further, the petitioner has himself attached a document (A-4) with the application wherein the total amount due to him is shown as 17,16,050/-.

1) That the answering respondent humbly submits that the petitioner has not approached this Hon'ble Court with clean hands as he has failed to disclose that he had already received the total amount of Rs. 17,16,050/- {on account of Gratuity (10 Lacs) & Leave Encashment (7,16,050)}. The same had been paid to him through various cheques

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bearing no. 061709 dated 07.01.2020 for Rs. 2,10,000/-, cheque bearing no. 002611 dated 05.05.2020 for Rs. 3,00,000/-, cheque bearing no. 002638 dated 07.07.2020 for Rs. 2,00,000/-, cheque bearing no. 002672 dated 27.08.2020 for Rs. 2,00,000/-, cheque bearing no. 002863 dated 10.03.2021 for Rs. 2,00,000/-, cheque bearing no. 002914 dated 06.04.2021 for Rs. 3,00,000/- and cheque bearing no. 003017 dated 06.07.2021 for Rs. 3,06,050/-.

The above said facts clearly show that the answering respondent has duly acted in accordance with law. There is no delay in releasing the payment to the petitioner and therefore, no interest is liable to be paid to him.

Infact, the petitioner has himself admitted that he had worked at different Municipal Councils in the State of Punjab and lastly, he had worked with the office of the answering respondent. The answering respondent had to verify all the records from all the Municipal Councils where the petitioner had worked/served and what amount was actually admissible to him, therefore, payments were made through different cheques and on different dates. It is further submitted that the answering respondent had released the payment even without receiving the payment from the other Nagar Councils and no delay is attributable to its part.

5) That it is further submitted that as per Letter No. 52357-559 dated 22.12.2022, gratuity limit was increased from Rs. 10,00,000 to Rs. 20,00,000. Copy of the Letter dated 22.12.2022 is attached herewith as Annexure R-4/1. In view of the

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> *said letter, the office of the answering respondent passed a resolution, bearing no.8/2023 for enhancement of payment of Gratuity limit from Rs. 10,00,000 to Rs. 20,00,000 (subject to conditions) and the Additional Deputy Commissioner, Urban Development Amritsar approved the resolution vide letter no. 2023/52 dated 12.04.2023.*
>
> *In view of the approval granted by the ADC, Urban Development Amritsar, the answering respondent released a further amount of Rs. 5,28,491/- on account of enhancement of ceiling limit of Gratuity. The petitioner received the same vide cheque no. 003668 dated 19.04.2023 as full and final payment. The petitioner has also signed on the Contingent Bill dated 19.04.2023 wherein he has accepted the payments. The said fact reveals that the petitioner has received all the monetary benefits as claimed by him in the instant writ petition."*

6. Although, the grievance of the petitioner with regard to release the retirement benefits have been readdressed by the respondents. However, learned counsel for the petitioner submits that since there is a considerable delay in releasing the same, therefore, he is entitled for the grant of interest.

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*

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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 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 31.12.2019 and respondents were bound to release the retiral benefits on the date of retirement or immediately thereafter. However, the said

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benefits have been released after a considerable delay. Therefore, the petitioner is held entitled to the grant of interest @ 6% interest.

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 delayed payment of retiral dues w.e.f. 01.03.2020 (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 **(NAMIT KUMAR)**
renubala **JUDGE**

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

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