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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5653-2022 (O&M)
Date of decision: 04.09.2024

Nasib Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sachin Gupta Ladwa, Advocate, for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Padamkant Dwivedi, Advocate, for respondent No.2.

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JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to pay interest on the delayed payment of retiral benefits to the petitioner.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was working with the respondent-Nigam and he retired as Technical Assistant on 30.06.2017. He submitted that only three days prior to the retirement of the petitioner, a charge-sheet was issued against him vide Annexure R-1 by levelling various allegations and after his retirement, the retiral benefits were not paid to the petitioner. He submitted that an enquiry was conducted and in the enquiry charges were not proved against the petitioner

at all and it was also held by the Enquiry Officer that the petitioner has not been proved to be guilty for causing any loss to the Corporation and on the basis of the aforesaid enquiry report, the Managing Director of the Corporation who was the competent authority considered all the pros and cons of the case and decided the same by passing an order Annexure P-1 on 14.08.2020 stating that the petitioner is absolved from of all the charges and he is also directed that all the pending dues be released to the petitioner. It was further directed by the Managing Director that in order to cover the losses suffered by the Corporation, the matter be pursued vigorously with the Food Corporation of India. He submitted that the respondent-Nigam filed a separate writ petition bearing CWP No.23777 of 2019 for the purpose of recovery and it was dispute *inter se* the respondent-Nigam and the FCI but for no justifiable reason, the retiral benefits of the petitioner have been withheld. He submitted that after the aforesaid order passed by the Managing Director on 14.08.2020, the retiral benefits were released to the petitioner. He submitted that all the retiral benefits have now been paid to the petitioner but the grievance of the present petitioner is with regard to the interest thereon. He also referred to a Full Bench judgment of this Court in ***A.S. Randhawa Versus State of Punjab and others, 1997(3) SCT 468*** and a judgment of a Co-ordinate Bench of this Court in ***J.S. Cheema Versus State of Haryana and others, 2014 (1) SCT 782*** to contend that so far as the interest part is concerned, since the amount was kept with the respondent-Nigam itself to which the petitioner is entitled for the same and the petitioner is not raising any grievance for the grant of any extra amount in the nature of damages or compensation and, therefore, at least the amount which was kept by the respondent-Nigam illegally for that the interest may be paid to the petitioner.

3. On the other hand, learned counsel appearing on behalf of the respondent-Nigam submitted that at the time when the petitioner retired, there was a charge-sheet pending against him but the charges were not proved against him and there was a finding of the Enquiry Officer that the petitioner has not been proved guilty for causing any loss to the Corporation and in view of the aforesaid reason the competent authority who was the Managing Director exonerated the petitioner and absolved him from all the charges and also directed that his pending dues may be released and thereafter immediately the entire amount was paid to the petitioner. He submitted that the petitioner would not be entitled for the grant of interest because at the time of retirement, a charge-sheet was pending against him and therefore, the respondents were well within their rights to have not paid the retiral benefits to the petitioner. He also submitted that a separate writ petition has been filed by the respondent-Nigam against the FCI for recovery of the amount in pursuance of the order passed by the Managing Director vide Annexure P-1.

4. I have heard the learned counsels for the parties.

5. The only prayer of the petitioner in the present case is for the grant of interest on the delayed payment of retiral benefits. A separate writ petition for the grant of interest on the retiral benefits is certainly maintainable in view of a Full Bench judgment of this Court in ***A.S. Randhawa's case (supra).*** The petitioner retired on 30.06.2017 and three days prior to his retirement, a charge-sheet was served upon him vide Annexure R-1. No doubt the charge-sheet was pending against the petitioner at the time when he retired and it culminated into his exoneration vide Annexure P-1 on 14.08.2020 but there is nothing on the record to show as to whether any order has been passed by any competent authority for withholding of the retiral benefits of the petitioner. It

is a settled law that on the retirement of an employee all the retiral benefits are to be paid to him. However, the retiral benefits can always be withheld or forfeited in case there is any provision of law and in the present case it has been invoked by the competent authority and by way of application of mind, an order has been passed by the competent authority as to why and under which provision of law the retiral benefits are being withheld.

6. During the course of arguments, a specific query was put to the learned counsel for the respondent-Nigam as to whether there was any specific order passed by any competent authority for withholding of retiral benefits on the ground of subsistence of charge-sheet to which he submitted that there is nothing on record to show the same. In this way, it is very clear that the petitioner who was entitled for retiral benefits was required to have been granted the entire retiral benefits at the time of his retirement and in case the respondent-Nigam wanted to withhold any of the retiral benefits for any reason whatsoever, then an order ought to have been passed but the same has not been passed and, therefore, the withholding of the retiral benefits of the petitioner was without any authority of law and was an arbitrary exercise of power.

7. A Coordinate Bench of this Court in ***J.S. Cheema's case (Supra)*** held as under:-

> "*In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.”

8. In the present case, the petitioner is demanding only the interest on the delayed payment and he is not demanding any extra damages or compensation because of the negligence on the part of the respondent-Nigam. The amount of retiral benefits were lying with the respondent-Nigam and out of which they also earned interest on the same and therefore, the petitioner is well within his rights to demand the interest on the retiral benefits. The mere fact that one writ petition was filed by the respondent-Nigam against the FCI would be of no concern in view of the fact that it was an inter-departmental dispute between the Nigam and the FCI and which is so reflected in the order passed by the Managing Director Annexure P-1 that the Nigam may pursue against the Food Corporation of India. Not only this, it has been specifically stated in the order Annexure P-1 that in the enquiry report the petitioner has not been proved guilty for causing any loss to the Corporation and he was absolved from all the charges by the Managing Director.

9. In view of the aforesaid facts and circumstances, the present writ petition is allowed. The respondent-Nigam is directed to calculate the interest @ 6% per annum (simple) from the date of the retirement of the petitioner plus two months till the date of its actual disbursement and pay the same to the petitioner, within a period of three months from today. In case the aforesaid amount is not paid to the petitioner within a period of aforesaid three months, then the petitioner shall be entitled for future interest @ 9% per annum (simple).

10. Considering the facts and circumstances of the present case, the petitioner shall also be entitled for costs, which are assessed as Rs.10,000/-, which shall also be paid to him within a period of aforesaid three months.

(JASGURPREET SINGH PURI)
JUDGE

04.09.2024
rakesh

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