2024:PHHC:060143

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19171 of 2001 (O&M)
Date of decision: 01.05.2024

Satya Pal Vashisht

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: None for the petitioner.

Mr. Teevar Sharma, AAG, Punjab
for respondent No.1.

Mr. Rakesh Roy, Advocate
for Mr. Abhilaksh Gaind, Advocate
for respondent No.2.

NAMIT KUMAR J. (Oral)

CM-7373-CWP-2024

Prayer in the instant application filed under Section 151 of CPC is for placing on record affidavit of Jasdev Singh Sekhon, Secretary, Municipal Corporation, Ludhiana, on behalf of respondent No.2.

Allowed as prayed for subject to all just exceptions.

CWP-19171-2001 (O&M)

1. The petitioner, who is a retired Superintendent from Municipal Corporation, Ludhiana, has approached this Court by filing the instant petition with the grievance that he retired from service on attaining the age of superannuation on 31.07.1997, however, he was paid pensionary benefits after counting his service from the date of confirmation i.e. 21.12.1977, though he should have been paid all the

benefits by counting his entire service of 35 years, 05 months and 09 days.

2. The instant petition was admitted on 10.12.2001 and now written statement by way of affidavit of Jasdev Singh Sekhon, Secretary, Municipal Corporation, Ludhiana, on behalf of respondent No.2, has been filed wherein it has been stated as under:-

> *"3. That, it is submitted that the petitioner had joined as a clerk on 22.02.1962, and was regularised on 21.12.1977.*
>
> *4. That, after attaining the age of superannuation, the petitioner retired on 31.07.1997.*
>
> *5. That, initially, he was paid gratuity by treating his service from 21.12.1977 to 31.07.1997 and the pension was also accordingly fixed. He was paid Rs.52,216/- towards Leave Encashment on 06.08.1997. A sum of Rs.41,580/- was paid on 06.08.1997 and another sum of Rs.40,326/- was paid on 24.11.1997, both on account of Gratuity.*
>
> *6. That, he was paid Rs.53,772/ on 12.11.1997, 55570/- on 12.11.1997 and 25752/- on 07.01.1998 towards P.F.*
>
> *7. That, after coming to notice of the difference in counting of the service period, the petitioner was paid the difference of Gratuity amounting to Rs.65,010/- and that of Leave encashment amounting to Rs.36,824/-, on 21.12.1998.*
>
> *8. That, his basic pension was fixed @ Rs.3907/- w.e.f. 01.08.1997, which was revised to Rs.8831/- w.e.f. 01.01.2006 and thereafter, it has been revised to Rs.21,632/- p.m. w.e.f. 01.07.2021 and the total amount of pension being paid is Rs.38,315/- p.m. The arrears of pension amounting to Rs.2,05,067/- was paid on 08.05.2006.*
>
> *9. That, it is submitted that the petitioner has been paid all the retiral benefits and the pension has been fixed by counting his service w.e.f. 22.02.1962 to 31.07.1997."*

3. A perusal of the averments made by the respondent – Corporation in the above affidavit would show that although pensionary

benefits of the petitioner have been released, however, there is considerable delay in releasing the same.

4. Since there was nothing adverse against the petitioner, at the time of his retirement, therefore, the retiral/pensionary dues were liable to be released to the petitioner within a reasonable time. Having not released the retiral/pensionary dues to the petitioner in time, hence, the petitioner is held entitled for interest @ 6% per annum.

5. The Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others*, 1997(3) SCT 468** has held that employee is entitled for the release of the pensionary benefits within a reasonable time after the retirement in case there is no impediment. The reasonable time fixed by the Full Bench of this Court in A.S. Randhawa's case (supra) is two months after the retirement. In case of the failure of the authority to release the pensionary benefits, employee has been held entitled for interest so as to compensate the employee for the delay. 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."*

6. Also, a Co-ordinate Bench of this Court in ***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 department, employee will be entitled for interest. 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."*

7. Keeping in view the above facts and settled principles of law, the present petition is allowed and the petitioner is held entitled for interest @ 6% per annum from 01.10.1997 (after 02 months from date of retirement) till the date of the actual payment(s), which shall be paid by respondent No.2, within a period of 03 months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

01.05.2024
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No