IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(272) **CWP-5694-2024**
Date of Decision : April 16, 2024

Surendra Kumar Nain **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajat Mor, Advocate, for the petitioner.

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

HARSIMRAN SINGH SETHI J. (ORAL)

1. Learned counsel for the petitioner submits that keeping in view the order dated 20.03.2024, only the benefit of GIS has been released to the petitioner but commutation of pension and gratuity has not yet been released to the petitioner.

2. Learned counsel for the respondents submits that as per his information, pension payment order has already been released on 15.04.2024 and the same has already been sent to the Treasury for the release of the remaining pensionary benefits to the petitioner.

3. Learned counsel for the petitioner does not dispute the said fact.

4. Learned counsel for the petitioner submits that as the petitioner has retired from service on 31.05.2021 and the benefits are now being released in the year 2024, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

5. Learned counsel for the respondents submits that though, at the time of the retirement of the petitioner on 31.05.2021, there was no proceeding pending against him but the Department was of the opinion that certain proceedings needs to be initiated against him due to which, the pensionary benefits were not released to the petitioner.

6. It may be noticed that it is only in case the disciplinary proceedings are pending, the Department has jurisdiction to withhold certain pensionary benefits. In the absence of any disciplinary proceedings pending on the date when the petitioner retired, the respondents did not had the jurisdiction to withhold the pensionary benefits.

7. As per the judgment of 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. 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."*

9. Keeping in view the above, as the delay in releasing the pensionary benefits is attributable to the Department only, the petitioner is also entitled for the grant of interest on the said delayed payment @ 6% per annum from the date the amount became due till the actual payment of the same.

10. Further, the Treasury is directed to release all the pensionary benefits within a period of three weeks of the receipt of the request from the Department concerned failing which, serious view will be taken.

11. The present writ petition is disposed of in above terms.

April 16, 2024 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

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