



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

224

CWP-4028-2021 (O&M)

Date of decision: 09.05.2024

Om Parkash

...Petitioner

Versus

Punjab School Education Board

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.K. Goklaney, Advocate for the petitioner

Mr. Ashish Verma, Advocate for the respondent

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present petition is for directing the respondents to release all the retiral interest @ 9% p.a. to the petitioner, on the delayed payment of arrears of retiral benefits.

2. Learned counsel would contend that the petitioner had retired after attaining the age of superannuation on 31.05.2013, however, arrears of salary and consequential benefits were not paid and his claim for granting the same was rejected by the Department vide order dated 11.12.2013. Therefore, he preferred CWP-3192-2014, which was allowed vide order dated 11.12.2015, the LPA as also the SLP, preferred by the Board were dismissed on 16.03.2017 and 13.10.2017, respectively, after which the arrears of leave encashment of Rs.1,27,080/- were paid on 28.03.2018, pension of Rs.4,36,592/- on 06.04.2018 and salary amounting to Rs.5,76,696/- on 24.04.2018, in pursuance to the contempt petition, COCP-2666-2017 filed by him.



contend that after the dismissal of the SLP, the arrears were released, therefore there is no delay on part of the Board and no interest is to be paid.

4. Heard learned counsel on either side.

5. Before proceeding to adjudicate the matter, it is apposite to make a reference to judgment dated 11.12.2015 passed by this Court, holding the petitioner entitled to arrears of salary and consequential benefits, relevant paras whereof read thus:

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Having heard learned counsel for the parties, it is apparent that stand of respondent-Board throughout has been that it is due to a ban imposed by State of Punjab that necessary action could not be taken for filling up posts of Assistant Secretaries. In CWP No. 9619 of 1999, respondent-Board specifically undertook that selection of Varinder Kumar shall be deemed to have been made alongwith selection qua two posts against 15% quota of direct recruitment of Assistant Secretaries for the purpose of seniority. It is not disputed that petitioner was found eligible in the year 1994 and 1996. He was already working with the department at that time. It is subsequently that by an amendment in the rules, 10% quota out of 25% quota for direct recruitment, was afforded to employees working in the respondent-Board. Eligibility conditions/qualifications for said 10% quota were amended and Varinder Kumar became eligible under the amended rules.

Petitioner has been afforded seniority over and above Varinder Kumar at every stage by the respondent-Board though after protracted and contentious litigation. While not denying petitioner's right over and above Varinder Kumar which was afforded grudgingly, petitioner is denied arrears of pay on the principle of 'No Work No Pay'. It is been held by Hon'ble Supreme Court in **Union of India versus K.V. Jankiraman AIR 19 91 Supreme Court 2120** that normal principle of 'No Work No Pay' is not applicable where an employee although willing to work is kept away from work by authorities for no fault of his. Division Bench of this Court in its decision dated 02.02.2006 in CWP No. 12037 of 2005 has endorsed such a view. Employee/petitioner therein was held entitled to all consequential benefits from the deemed date of his promotion.

In view of the specific stand taken by the respondents right from the very outset, it is not open to the respondents to take a stand now that persons to be appointed against two posts



out of direct quota of 15% qua process started in the year 1994 and 1996 would rank senior to respondent-Varinder Kumar, but arrears of pay would not accrue to them. Undertaking in respect to seniority would otherwise be illusory and reflective of an attempt of respondents to carve out an escape route at that particular point of time to escape contempt.

Consequently, this writ petition is allowed and petitioner is held entitled to arrears of salary and consequential benefits for the relevant period.”

6. Pertinently, the petitioner, who despite having been granted the arrears way back in the year 2015 was only belatedly released the same in 2018, premise for such delay stems out of a challenge laid to the aforesaid judgment in appeal before the Division Bench and Hon’ble the Supreme Court, wherein there was no interim order as well, even otherwise were not even filed within the period of limitation, thereby prolonging the decision thereon and in the same staid agony of the petitioner by depriving him of the amount of retiral benefits including salary, legally due to him, which could have been released conditionally, the major portion of the amount being retiral benefits, which in **State of Kerala and Others vs. M. Padmanabha Nair**, (1985) 1 SCC 429, were held to be no longer a bounty and have become valuable rights and property in hands of the employees, any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. As a sequitur, even the balance of equity tilts in favour of the petitioner.

7. Full Bench of this Court in **A.S. Randhawa vs. State of Punjab and others**, 1997(3) SCT 468, held that an employee would be entitled to be compensated by granting interest by the State on account of delayed disbursal of retiral benefits.

8. Hon’ble the Supreme Court in **Vijay L. Mehrotra vs. State of UP**, 2001 (9) SCC 687, ruled that in case there is no justification or reason for delayed



payment of retiral benefits, interest would be liable to be paid, while this Court in **J.S. Cheema vs. State of Haryana**, 2014(13) RCR (Civil) 355, observed that, the interest has to be given to an employee where an amount belonging to him, was retained and utilized by the respondents, has been released on a later date.

9. There appears to be no doubt of there being an inordinate delay in releasing the arrears, therefore the petitioner is entitled to grant of interest on the amount with which the respondents unjustly enriched themselves, it being compensatory in nature and not penal.

10. In wake of the facts and circumstances of the case, the present petition is disposed of with a direction to the respondents to pay interest at the rate of 6% per annum on the retiral benefits from the date of judgment passed in CWP-3192-2015 till their realization, within a period of two months.

(AMAN CHAUDHARY)
JUDGE

09.05.2024

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No