2024:PHHC:148136

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111+275) **CM-16759-CWP-2023 in/and**
CWP-6351-2023 (O&M)
Date of Decision : 13.11.2024

Sunil Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

(261) **CWP-14775-2022 (O&M)**

Sunil Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parveen Kumar Garg, Advocate for the petitioner.

Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.

***

<u>Harsimran Singh Sethi J. (Oral)</u>

<u>CM-16759-CWP-2023</u>

Present application has been filed for placing on record documents as Annexures P-11 & P-12 to P-14.

Application is allowed and documents as Annexures P-11 & P-12 to P-14 are taken on record with all just exceptions.

CWP-6351-2023 (O&M) and CWP-14775-2022 (O&M)

1. By this common order, two writ petitions, which have been filed by the petitioner being CWP No. 6351 of 2023 and 14775 of 2022, are being decided.

2. In CWP No. 6351 of 2023, the petitioner is challenging the orders dated 14.07.2020, 05.08.2020, 07.09.2020 and 16.02.2021 (Annexures P-6, P-8 to P-10 respectively) by which, the interest has been deducted from the pensionary benefits of the petitioner on the excess amount withdrawn by the petitioner by wrong fixation of pay, which amount was deposited back by the petitioner. In the other writ petition being CWP No. 14775 of 2022, the petitioner is claiming that he had retired from service in the year 2017 but all his pensionary benefits have not been released by the respondents, hence, petitioner is entitled for interest on the delayed release of the pensionary benefits.

3. Upon notice, the respondents have appeared and filed the reply. With regard to the claim of interest by the department on an amount of ₹1,00,679/-, which the petitioner had deposited, the State is on record to say that once the said amount has been deposited back by the petitioner on his own as the same was taken by the petitioner in excess of his entitlement, the State is entitled to claim interest on the said amount.

4. With regard to the claim of interest by the petitioner on the delayed release of the pensionary benefits, learned counsel for the respondents submits that at the time when the petitioner retired from service, a charge-sheet dated 23.08.2017 was pending against the petitioner, hence,

the petitioner could not have claimed the release of his pensionary benefits and after the said charge-sheet was quashed by this Court, the pensionary benefits have already been released to the petitioner, hence, there is no question of grant of interest to the petitioner. Learned counsel for the respondents further submits that on certain delayed release of the pensionary benefits, the interest has already been paid to the petitioner.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. With regard to the challenge to the orders dated 14.07.2020, 05.08.2020, 07.09.2020 and 16.02.2021 (Annexures P-6, P-8 to P-10 respectively) by which the interest is being sought by the respondent-State on an amount of ₹1,00,679/-, it may be noticed that once the petitioner voluntarily deposited back the said excess amount to the State as the same had wrongly been withdrawn by him, the State is entitled to claim the interest on the said excess payment received by the petitioner in a same manner as, the employee whose amount has been retained by the State, would have been allowed interest.

7. Once, the petitioner has retained the amount of ₹1,00,679/- beyond his entitlement and used the same to his benefit but later on returned the said excess payment to the State, the petitioner is liable to pay interest on the said amount, hence, the claim of interest by the State from the petitioner on an amount of ₹1,00,679/- cannot be treated as arbitrary or illegal in any manner.

8. With regard to the claim of the petitioner for the grant of interest on the delayed release of his pensionary benefits, the objection of the State is that there was a charge-sheet which was issued to the petitioner on 23.08.2017 which was pending against him due to which, pensionary benefits of the petitioner were delayed and pendency of a disciplinary proceedings entitles/gives the jurisdiction to the State to withhold certain pensionary benefits.

9. The said argument of learned State counsel cannot be made applicable in the present case as, the charge-sheet dated 23.08.2017 was quashed by this Court while passing order in CWP No. 3046 of 2018 on 09.09.2019. Once, the charge-sheet was quashed by the Court, the respondents are under obligation to release the interest also on the delayed release of the pensionary benefits and the pendency of the said charge-sheet cannot cause prejudice to the petitioner. Even otherwise, after the retirement, all the pensionary benefits cannot be withheld by the respondents.

10. As per the judgment of a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, 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 **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.”

11. Keeping in view the above, the respondents are directed to grant the petitioner interest on the delayed release of the pensionary benefits @ 6% per annum from the date the said amount became due till the actual payment of the same. In case, interest @ 6% per annum has been paid on any of the retiral benefits, no further amount will be paid keeping in view the direction given here-in-before, but in case, on any of the retiral benefits the interest has not been paid as directed here-in-before, the same will be released in favour of the petitioner @ 6% per annum from the date of retirement till the actual payment of the same within a period of eight weeks of the receipt of copy of this order.

12. At this stage, learned counsel for the respondents submits that the interest for which the State has been held entitled for, the State be allowed to adjust the same qua the interest payable to the petitioner.

13. The said submission is valid. The respondent-State after deducting the interest which the State is entitled to recover from the petitioner on amount of ₹1,00,679/-, which will also be recovered @ 6% per annum only, shall release the remaining amount, if any, found liable to be paid to the petitioner as interest @ 6% per annum on the delayed release of

the pensionary benefits within a period of eight weeks of the receipt of copy of this order.

14. Present petitions are disposed of in above terms.

15. Pending miscellaneous application, if any, also stands disposed of.

16. A photocopy of this order be placed on the file of connected cases.

November 13, 2024 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No