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

**242** **CWP-8064-2019 (O&M)**
**Date of Decision :22.07.2024**

**Darshana Kumari Mahia ...Petitioner**

**Versus**

**State of Punjab and others ....Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rakesh Sobti, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

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***Harsimran Singh Sethi, J. (Oral)***

In the present petition, grievance of the petitioner is that the interest on the delayed release of the pensionary benefits of the petitioner has not been released to her by the respondents.

As per averments made in the present petition, the petitioner who was working in the Education Department, Punjab as Lecturer attained the age of superannuation on 31.01.2015 and as extension of two years in service was granted to her after serving for another two years, she retired from service in the year 2017. At the time when the petitioner retired, no charge sheet was pending against her so as to give jurisdiction to the respondents to withhold her pensionary benefits.

After the retirement on 24.03.2017, a charge sheet was issued to the petitioner and on the basis of the said charge sheet, certain pensionary benefits of the petitioner were withheld. The petitioner submitted various representations that once, on the date when the petitioner retired from service, no charge sheet was pending against her, there was no jurisdiction with the respondents to withhold her pensionary benefits but the respondents did not release the pensionary benefits of the petitioner.

The allegations alleged against the petitioner in the said charge sheet were not proved and ultimately the charge sheet was dropped and thereafter, withheld benefits were paid to the petitioners starting from October, 2017 till July, 2019 but provisional pension to the extent of 90% was paid and remaining 10% was not paid and gratuity amounting to Rs.10 lacs was also not released.

Feeling aggrieved against the same, petitioner filed the present writ petition and during the pendency of the present writ petition, all the pensionary benefits have been released to the petitioner but as there is delay in releasing the pensionary benefits of the petitioner, the petitioner is claiming grant of interest on the delayed release of her pensionary benefits.

In para-13 of the reply, the respondents have given a chart as to on which date the pensionary benefits were released to the petitioner. As per the respondents, the petitioner was issued a charge sheet due to which her pensionary benefits could not be released and when the said charge sheet was dropped, all the admissible pensionary benefits were released to the petitioner hence, no benefit of interest can be paid to the petitioner.

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

Once, the charge sheet issued to the petitioner which was the basis for withholding the pensionary benefits of the petitioner has been dropped as the allegations were not proved by the respondent-State, the same cannot cause prejudice to the petitioner so as to compensate the delay which has occurred in the release of the pensionary benefits.

As per the averments made in para-13 of the reply though, the petitioner retired in the year 2017 but payments have been made starting from November 2017 till July 2019.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, has held that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her 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."*

It may be noticed that on the date when the petitioner retired from service, there was no charge sheet pending against her and the same was issued after the retirement of the petitioner. That being so, the respondents did not had jurisdiction to withhold the pensionary benefits of the petitioner.

Be that as it may, even the charges alleged against the petitioner in the said charge sheet could not be proved by the respondents and hence, the same cannot cause prejudice to the petitioner.

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 formof 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."*

Keeping in view the facts and circumstances recorded hereinbefore, coupled with the settled principle of law cited hereinabove, the petitioner is held entitled for the grant of benefit of interest @ 6% per annum on the delayed released of pensionary benefits starting from 01.04.2017 till the actual payment of the same.

Let the computation of interest under the present order be done within a period of 08 weeks from the date of receipt of copy of this order and the amount so calculated be released to the petitioner.

Present petition is disposed of in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

**July 22, 2024** **(HARSIMRAN SINGH SETHI)**
*aarti* **JUDGE**

*Whether speaking/reasoned : Yes/No*
*Whether reportable : Yes/Nor*-+*/*