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

CWP-8877-2021
Date of decision : 21.02.2024

Amrit Pal Singh Julka ... Petitioner

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Puneet Gupta, Advocate for the petitioner.

Ms.Neha Sonawane, DAG, Punjab.

<u>VIKAS BAHL, J.(ORAL)</u>

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to forthwith release the pending payment of the Group Insurance Scheme (GIS) to the petitioner, with a further prayer directing the respondents to pay interest @ 18% per annum on the delayed payments of GPF, arrears of pension, commuted pension, gratuity, leave encashment, GIS and other pensionary benefits to the petitioner from the date of retirement till realisation of the same.

2. Learned counsel for the petitioner has submitted that the petitioner was appointed as a Junior Engineer in the department of Water Supply and Sanitation on 17.09.1985 and thereafter, was designated as an Assistant Engineer and was then promoted as a Sub Divisional Engineer on 19.05.2014 and on account of compelling domestic circumstances, had sought pre-mature retirement on 19.03.2018, which was accepted on 26.07.2018 and thereafter the petitioner was relieved from service on 31.07.2018. It is submitted that the respondent authorities had released the

General Provident Fund, death-cum-retirement gratuity, commuted pension, arrears of pension from 01.08.2018 to 31.01.2020 and leave encashment after much delay and the chart showing the period of delay has been given in paragraph 10 of the writ petition. It is further submitted that at the time of filing of the writ petition, the Group Insurance Scheme amount had not been released by the respondents and the same amounting to Rs.42,946/- had only been released on 07.06.2022, which fact is apparent from the reply filed by respondents no.1 and 2 (running page 53 of the paper book). It is stated that as per the law laid down by the Coordinate Bench of this Court in ***CWP no.15867 of 2001*** titled as ***"J.S. Cheema vs. State of Haryana and others", decided on 20.11.2013,*** the petitioner is entitled to interest on the said delayed payment.

3. Learned State counsel has, on the other hand, submitted that in the present case the petitioner had sought voluntary retirement and was not retired in due course and thus, there was delay in making the payments. Learned State counsel has relied upon Rules 9.3 to 9.6 of the Civil Services Rules to contend that the Head of Office is to undertake the work of preparation of pension papers in form PEN 1, two years before the date on which a government employee is to retire on Superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier and since in the present case, the petitioner had taken voluntary retirement which was on a date prior to the date of actual retirement, thus, the department did not get the aforesaid two years for preparing the necessary papers.

4. Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner had given a three months notice dated 19.03.2018 prior to

his retirement and the same was accepted on 26.07.2018 w.e.f. 31.07.2018 and has submitted that the respondent authorities had adequate knowledge of the intent of the petitioner to take voluntary retirement, which was duly accepted and thus, the plea raised by the learned State counsel would not dis-entitle the petitioner for the claim of interest.

5. This Court has heard the learned counsel for the parties and has perused the paper book.

6. It is not in dispute that the petitioner had given a notice dated 19.03.2018, seeking voluntary retirement which was accepted on 26.07.2018 w.e.f. 31.07.2018. The schedule of payments made as has been stated in paragraph 10 of the writ petition, has also not been disputed. Paragraph 10 of the writ petition is reproduced hereinbelow:-

Sr.No.	***Head***	***Amount***	***Date of payment***	***Delay***
1	*General Provident Fund*	*Rs.5,68,288/-*	*20.12.2019*	*17 months post retirement and 2 ½ years post sanction*
2	*Death-cum-Gratuity*	*Rs.10,00,000/-*	*18.02.2020*	*19 months*
3	*Commuted Pension*	*Rs.6,45,369/-*	*18.02.2020*	*19 months*
4	*Arrears of Pension from 01.08.2018 to 31.01.2020*	*Rs.8,05,653/-*	*18.02.2020*	*19 months*
5	*Leave Encashment*	*Rs.2,95,675/-*	*11.03.2020*	*20 months*

A perusal of the above chart would show that there has been a delay of 17 to 20 months in release of five benefits, which were mentioned in the said chart. It is not in dispute that the amount due on account of Group Insurance Scheme was released on 07.06.2022 and the said amount was Rs.42,946/- as is apparent from paragraph 7 of the preliminary objections of the reply filed on behalf of respondents no.1 and 2.

7. The Coordinate Bench of this Court in ***J.S. Cheema's*** case (supra), has held as under:-

"1 to 3. xxx xxx

4. In the written statement, the plea taken is that the petitioner submitted his pension papers very late and that is why some delay was caused in the disbursal of his retiral benefits.

5. In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.

6. Learned Assistant Advocate General has further argued that some reasonable time has to be granted for processing the papers and the requirement of law is not that strict that interest must be ordered from the first day after retirement. I find some weight in this assertion.

7. Learned counsel for the petitioner has argued that as per the Government instructions the period of three months has to be taken as maximum period within which the retiral benefits has to be released. After deducting those three months there is still a delay as mentioned above.

8. In the circumstances, I hold the petitioner entitled to interest @ 8% p.a. on the delayed payment of retiral benefits. The interest will become due w.e.f. 01.05.2000. Let the interest on the above components i.e. gratuity, arrears of pension and leave encashment be computed @ 8% p.a. from 01.05.2000 till the date of payment and the same be released to the petitioner within a period of two months from the date of receipt of a certified copy of this order, failing which, the petitioner would be entitled to claim the same with interest @ 9% p.a.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of."

A perusal of the above judgment would show that in the said case, the plea taken in the written statement was to the effect that the papers submitted by the petitioner therein were after considerable delay but the said plea was rejected by the Coordinate Bench of this Court by observing that the jurisprudential basis for grant of interest to a person was that the said person's money had been used by somebody else and thus, even if there was no negligence on the part of the State, it could not be denied that money which rightly belonged to the employee, was in the custody of the State and was being used by it and thus, interest at the rate of 8% per annum was granted to the petitioner therein on the delayed payment of retiral benefits. A period of three months was taken to be sufficient period for release of retiral benefits and thus, the said interest was granted to the petitioner therein after a lapse of the said three months. The said judgment in view of this Court applies with all force in the present case as it cannot be disputed that the amounts which have been paid to the petitioner after the delay as mentioned in the chart reproduced hereinabove, were due to the petitioner and were retained by the State.

8. Keeping in view the abovesaid facts and circumstances, the present writ petition is allowed and the petitioner is held entitled to the interest at the rate of 8% per annum on the delayed payment of retiral benefits and the said interest would accrue to the petitioner w.e.f. 31.10.2018 till the date of actual payment. It is further directed that the said amount be released to the petitioner within a period of two months from the date of receipt of certified copy of the present order, failing which the petitioner would be entitled to claim the same with interest at the rate of 9% per annum.

(VIKAS BAHL)
JUDGE

February 21, 2024
Davinder Kumar

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