

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

104

CWP-7562-2024 (O&M)  
Decided on : 19.04.2024

**RAJ KUMAR YADAV**

...Petitioner

Versus

**STATE OF HARYANA AND ORS**

... Respondents

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

PRESENT: Mr. Jagdeep S. Rana, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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**HARSIMRAN SINGH SETHI, J. (Oral)**

1. In the present petition, the claim being raised by the petitioner is that he is entitled for the grant of interest on delayed release of pensionary benefits and the said claim of the interest has wrongly been denied by the respondents while passing the impugned order dated 12.12.2022 (Annexure P-15).
2. Learned counsel for the petitioner submits that though the payment of pensionary benefits has been made in July, 2021 but the interest on the said delayed release of payment of pensionary benefits has not been paid to the petitioner upto the said date and the said claim has wrongly been rejected by the respondents such act of the respondents is totally arbitrary and illegal.
3. Notice of motion.
4. Mr. Harish Nain, AAG, Haryana, accepts notice on behalf of the respondents-State and submits that he had received the instructions from the department concerned qua the grievance raised by the petitioner in the present petition.

5. Learned counsel for the respondents submits that as per the instructions received from the respondents-department, the department has not only paid the pensionary benefits to the petitioner but interest has also been paid.

6. Learned counsel for the respondents submits that leave encashment amounting to Rs. 6,27,070/- was paid to the petitioner on 07.07.2020 vide voucher No. 5 dated 07.07.2020 and the interest on the said amount from 01.06.2015 to 07.07.2020 amounting to Rs. 2,55,286/- was also paid to the petitioner. Similarly, the gratuity of Rs. 7,52,484/- was paid to the petitioner on 24.11.2020 vide Bill no. 07000765 dated 23.11.2020 and the interest on the said amount from 01.06.2015 to 23.11.2020 amounting to Rs. 3,26,584 has also been paid to the petitioner.

7. Learned counsel for the respondents submits that the interest on the delayed payment has already paid to the petitioner vide pay order No. 1600243555 dated 03.08.2021 and total sum of Rs. 5,81,870/- has been paid to the petitioner as interest from 01.06.2015 till the actual payment of leave encashment and gratuity was released.

8. Learned counsel for the petitioner submits that once the interest was paid on 03.08.2021, the said interest has to be paid upto the date of payment of interest whereas the said interest has only been paid upto the date of actual payment of the leave encashment and gratuity and hence, the respondents are liable to be directed to pay the remaining interest amount.

9. Learned counsel for the petitioner further prays that on the GIS amount, arrears of salary and arrears on revised pay which has been paid to the petitioner after the delay of more than six years, no interest has been paid to the petitioner, hence, the petitioner is entitled for the grant of interest.

10. I have heard learned counsel for the parties and have gone

through the record with their able assistance.

11. Qua the grant of interest on the delayed release of pensionary benefits, no grievance can be made by the petitioner as the same has already been granted to him. The claim of the petitioner is that the petitioner has been paid the interest in the year 2021, the same has to be paid upto the said date which cannot be accepted. Once, the basic payment of leave encashment was made on 07.07.2020 and 23.11.2020, the interest is to be paid upto the said date otherwise it will amount to payment of interest upon interest, which is not admissible.

12. Qua the grant of benefit of arrears on the amount of GIS, salary arrears, revised pay arrears, which became due in the year 2014 or upon retirement or upon revision of pay w.e.f. 01.01.2016 and nothing has come on record that interest on those delayed payment has been granted, the respondents are directed to pass an appropriate order qua the same keeping in view the judgment passed by the Co-ordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, wherein it has been 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.

13. 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.”*

14. Let the order on the above said aspect be passed keeping in view the judgment passed in **J.S. Cheema’ s case (Supra)** and in case, the delay is on the part of respondents-department, the arrears be paid along with interest @ 6% per annum from the date said amount accrued till the actual payment.
15. Accordingly, the present petition stands disposed of in above terms.
16. It is made clear that in case the delay is not attributable to the respondents-department then the department is free to pass an appropriate order.
17. Pending civil miscellaneous application, if any, stands disposed of.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

**19.04.2024**  
*Riya*

Whether speaking/reasoned: Yes/~~No~~  
Whether Reportable: ~~Yes~~/No