

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

RSA-2927-1998 (O&M)

Date of Decision :07.03.2024

Punjab State

..Appellant

Versus

Mohinder Singh Gill

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Saguna Arora, AAG, Punjab.

None for the respondent.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present regular second appeal, challenge is to judgment and decree of the Courts below by which, suit filed by the respondent-plaintiff for the grant of interest on the delayed release of the pensionary benefits has been allowed.

2. It may be noticed that respondent/plaintiff retired from service on 31.08.1996 and at the time when he retired from service, there were five disciplinary proceedings pending against him and due to the pendency of the said disciplinary proceedings, certain pensionary benefits were withheld by the respondents and as those disciplinary proceedings were only dropped in the year 1993 and thereafter, the benefit of gratuity and leave encashment was released in favour of the respondent-plaintiff. Respondent-plaintiff claimed interest on the delayed release of the pensionary benefits, which has been allowed by the Courts below on the ground that once the

respondent-plaintiff has been exonerated in the disciplinary proceedings pending against him, necessary corollary will be that the employee will also be entitled for interest.

3. Learned counsel for the appellant-State submits that due to pendency of the disciplinary proceedings against the respondent-plaintiff provisional pension could not have been stopped but same could not be released due to an inaction on the part of the respondents as it has already come on record that respondent-plaintiff did not fill up the pension papers up to the year 1988 and as and when the required formalities for the release of the provisional pension were completed by the respondent-plaintiff, the same were released hence, delay in releasing the provisional pension was attributable to the respondent-plaintiff only and not to the department.

4. I have heard learned counsel for the appellant-State and have gone through the record with her able assistance.

5. It is a settled principle of law settled by the Full Bench of this Court in *A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468* that an employee is entitled for the release of his pensionary benefits within a period of two months from the date of his retirement in case there is no impediment in the release of the same failing which, an employee becomes entitled for the grant of interest on the said delayed release of the payment.

6. In the present case, it is to be seen as to whether delay in the release of the pensionary benefits is attributable to the department or to the respondent-plaintiff. With regard to the grant of GPF and provisional pension, the same could not have been withheld even if, the departmental proceedings were pending against the respondent-plaintiff and the same

were liable to be released by the department upon retirement but with the condition that respondent-plaintiff fulfills the required formalities for the release of the same as envisaged in the rules governing the service. Under the rules governing the service, an employee is to fill up the pension papers prior his/her retirement whereas, in the present case, it has come on record that for the release of the pensionary benefits, pension papers were submitted by the respondent-plaintiff after two years of the retirement. The said evidence has gone unrebutted hence, with regard to the claim of the respondent-plaintiff for the grant of interest on the amount of GPF and provisional pension, the same could not have been allowed by the Court below without appreciating the actual facts.

7. With regard to the release of the gratuity and leave encashment, the respondents had withheld the pensionary benefits due to the fact that at the time when the respondent-plaintiff retired from service, there were five disciplinary proceedings pending against him though, in the year 1993, all those disciplinary proceedings were dropped. That being the factual position, once the benefit which was stopped due to the pendency of the disciplinary proceedings and in those disciplinary proceedings respondent-plaintiff has been exonerated, respondent-plaintiff becomes entitled for the grant of interest on the withheld pensionary benefits. Once, the department fails to prove the allegations alleged against the respondent-plaintiff in the disciplinary proceedings, no prejudice can be caused to the respondent-plaintiff.

8. Keeping in view the facts and circumstances recorded hereinbefore, judgments and decrees of the Courts below are modified to

the extent that respondent-plaintiff will not be entitled for the grant of interest on the provisional pension as well as GPF but will get interest @ 6% per annum on the delayed release of the gratuity and leave encashment from the date the payment became due i.e. 1986 till the same was actually released in favour of the respondent-plaintiff.

9. Keeping in view the above, present regular second appeal is partly allowed in above terms and the judgment and decree of the Court below is accordingly modified and the suit filed by the respondent-plaintiff is partly allowed on the terms and conditions mentioned hereinbefore.

March 07, 2024

(HARSIMRAN SINGH SETHI)

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JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No