**115**

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

CWP-8320-2023
Date of decision: 20.02.2024

Neeru Singla ...Petitioner

Versus

State of Punjab and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Ms. Sidhi Bansal, Advocate and
Ms. Ridhi Bansal, Advocate for the petitioner.

Mr. Brijesh, Assistant A.G. Punjab.

****

**VIKAS BAHL, J. (ORAL)**

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing of order dated 02.02.2022 (Annexure P-10) whereby while deciding legal notice dated 05.05.2021 (Annexure P-6) preferred by the petitioner, her claim for grant of interest on the delayed payment of retiral benefits due to her deceased husband has been rejected.

2. In compliance of order dated 30.10.2023 passed by a Coordinate Bench of this Court, today learned counsel for the petitioner has filed a copy of the judgment dated 14.03.2018, vide which the husband of the petitioner had been acquitted in FIR No.126 dated 17.06.2003, in the trial Court, which is taken on record.

3. Learned counsel for the petitioner has submitted that the husband of the petitioner namely Subhash Chander Singla had retired from the Water Resources Department on 30.04.2018 as Sub Divisional Officer

and during his service period, an FIR No.126 dated 17.06.2003 was falsely registered against him by the Vigilance Bureau, Punjab wherein, he was acquitted on 14.03.2018. It is further submitted that since, a sealed cover procedure was adopted in his case thus, upon his acquittal, the husband of the petitioner was promoted as an Executive Engineer w.e.f. 17.06.2017 when other persons were promoted. It is argued that even as per the impugned order and the detailed reply filed by the State, the amount due on account of unrevised leave encashment was released on 09.05.2019 i.e. after a period of more than 1 year & 9 days from the date of retirement, the amount due on account of GPF was released to the petitioner on 28.01.2021 i.e. after a period of more than 2 years & 8 months from the said date and the amount due on account of Death-cum-Retirement Gratuity was released on 15.11.2021 i.e. after a period of 3 years & 6 months from the date of retirement. It is also submitted that the arrears of provisional pension were released on 15.07.2021 and that the amount due on account of revised leave encashment was released on 19.08.2021 instead of the same having been paid on 16.12.2020, on which date the pay of husband of the petitioner had been revised and thus, there was a delay of more than 8 months for the release of the said revised leave encashment. Learned counsel for the petitioner has relied upon a judgment passed by the Full Bench of this Court in case titled as ***"A.S. Randhawa Vs. State of Punjab and others"*** reported as ***1997 (3) SCT 468*** to submit that the petitioner is entitled to interest on the said delayed payment.

4. Learned State Counsel, on the other hand, has referred to the detailed written statement to highlight the fact that with respect to leave

encashment and payment of GPF, there was delay on behalf of husband of the petitioner in applying for the same and with respect to payment of regular pension and DCRG, there was delay on behalf of husband of the petitioner in submitting the complete documents. It is submitted that the husband of the petitioner, as per the Service Rules, should have applied for release of GPF six months prior to his retirement and for gratuity 8 months prior to his retirement. It is contended that for the purpose of release of the said benefits, reasonable period is required for the Department to carry out the necessary paper work so as to release the amount.

5. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment passed 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*** to argue that in the said judgment, it was observed that even if there was no negligence on the part of the State, it could not be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it and thus, the interest at the rate of 8% per annum was granted to the petitioner therein. It is submitted that even in the said case, the plea raised on behalf of the State was that there was delay in applying for the retiral benefits although, it is argued that even the said aspect has been disputed by the petitioner in the present case.

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

7. It is not in dispute that husband of the petitioner had retired on 30.04.2018 and prior to his retirement, had been acquitted vide judgment dated 14.03.2018 in FIR No.126 dated 17.06.2003 and there were no

criminal or disciplinary proceedings pending against the petitioner on the date of his retirement. The following chart would show that there was apparent delay in the release of retiral benefits to the petitioner:-

| **Sr. No.** | **Head** | **Date of release of amount as per reply filed on behalf of respondent Nos.1 to 4** |
|---|---|---|
| (I) | Leave Encashment | On 09.05.2019 (at page 88 of the paper book) |
| (II) | GPF | On 28.01.2021 (at page 90 of the paper book) |
| (III) | Regular Pension and DCRG | On 15.11.2021 (at page 92 of the paper book) |
| (IV) | Arrears of Provisional Pension | On 15.07.2021 (as has been admitted during the course of hearing between both the parties) |
| (V) | Revised Leave Encashment | Due on 16.12.2020 and released on 19.08.2021 (at page 94 of the paper book) |

8. Primary plea taken in defence by the State is that with respect to release of some of the retiral benefits, there was delay in moving the application for its release by the petitioner. A 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."*

9. A perusal of the above judgment would show that even in the said case, the plea taken in the written statement was to the effect that the papers were submitted late by the petitioner therein but it was observed by the Coordinate Bench of this Court 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 in case 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 the view of this Court, applies with all force in the present case.

10. Keeping in view the abovesaid facts and circumstances, the present Civil 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 (which have been detailed in para 7 of the present order) and the said interest would accrue to the petitioner after three months of the date on which it became due till the date of actual payment. It is further directed that the said amount be released to the petitioner within a period of three 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.

11. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**20.02.2024** **(VIKAS BAHL)**
*Pawan* **JUDGE**

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**