

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

252-2

CWP-10748-2022

Date of decision : 29.02.2024

Kishore Kumar

....Petitioner

V/S

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Lalit Goyal, Advocate for
Mr. Aman Dhir, Advocate for the petitioner.

Ms. Arundhati Kulshreshtha, A.A.G., Punjab.

Ms. Nikita Garg, Advocate for respondents No.3.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for setting aside the impugned order dated 08.10.2021 (Annexure P-6) passed by respondent No.3, whereby it has been decided that the retirement dues amounting to Rs.9,27,759/- will be released to the petitioner in the monthly installment of Rs.1,00,000/-, without any interest on the delayed payment and a writ in the nature of mandamus directing the respondents to grant/release the complete service benefits of the petitioner along with interest @ 18% per annum on the delayed payment of retiral dues.

2. Brief facts as necessitated for the disposal of the present petition are that the petitioner has retired as Sewadar/Peon from Nagar Council, Gidderbaha on 30.04.2021, on attaining the age of

superannuation. Since his retiral benefits were not released promptly, therefore, he made a representations dated 26.05.2021, 22.07.2021 and 09.08.2021 to the respondent-Nagar Council but to no avail. Aggrieved against the same, the petitioner approached this Court by way of filing CWP No.15983 of 2021 which stands disposed of on 19.08.2021 with directions to the respondents to consider the representations dated 26.05.2021, 22.07.2021 and 09.08.2021 moved by the petitioner and decide the same in accordance with law by passing a speaking order preferably within a period of one month from the date of passing of the said order. Pursuant to the said order, the respondent-Nagar Council has passed the impugned order dated 08.10.2021, vide which the petitioner was held entitled to total retirement dues amounting to Rs.16,52,751/- out of which Rs.7,24,992/- have been released to the petitioner and the remaining amount of Rs.9,27,759/- is decided to be released to the petitioner in the monthly installment of Rs.1,00,000/- without any interest on the delayed payment. Hence, this petition.

3. Learned counsel for the petitioner submits that the petitioner is entitled for interest on the delayed payment of retiral dues in view of the law laid down by a Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** and ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***. He further submits that for the said claim, he has been forced to come again to this Court.

4. On the other hand, learned counsel for respondents No.3 submits that the whole amount of retiral dues have been released to the

petitioner and nothing is due. However, he conceded the fact that some delay has occurred in releasing the retiral dues to the petitioner. Learned counsel for the respondent has produced a letter dated 28.02.2024, which is taken on record. As per the said letter, the retiral dues of the petitioner have been disbursed to him in installments on various dates which are as under :-

Sr. No.	Details	Payable amount	Paid amount	Cheque No.	Date	Balance amount
1.	Gratuity	9,23,400/-	1,000,00/-	97402	30.04.2021	-
			1,00,000/-	97620	06.07.2021	-
			5,00,000/-	101540	30.09.2021	-
			1,00,000/-	101604	22.10.2021	-
			1,00,000/-	104521	22.11.2021	-
			23,400/-	101630	02.11.2021	-
2.	Enhanced Gratuity	1,24,920/-	1,24,920/-	123291	26.09.2023	-
3.	Leave Encashment	4,61,700/-	1,600/-	101630	02.11.2021	-
			1,00,000/-	104597	10.12.2021	-
			1,00,000/-	104693	28.01.2021	-
			1,00,000/-	112073	12.08.2022	-
			1,00,000/-	114291	06.10.2022	-
			60,100/-	117123	02.02.2023	-
4.	Balance amount in P.F. Account	24,992/-	24,992/-	89008	30.09.2021	-
5.	Installments of P.F. (along with advance P.F.) which is due to be deposited.	2,65,073/-	39,900/-	117123	02.02.2023	-
			1,74,997/-	71894	15.06.2023	-
			50,176/-	80546	06.07.2023	-
6.	D.A. of Different Times	65,132/-	65,132/-	97364	12.04.2021	-
7.	New Pay Scale	15,640/-	15,640/-	97364	12.04.2021	-
	Total	18,80,857/-	18,80,857/-	-	-	-

5. I have heard learned counsel for the parties and gone through the relevant documents.

6. It is an admitted fact that no disciplinary proceedings/criminal case were pending against the petitioner before or after his retirement, therefore, he is entitled for the release of his retiral benefits atleast within a period of 03 months from the date of his retirement i.e. upto 31.07.2021. However, the petitioner has received his retiral benefits after a stipulated period of 03 months.

7. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. 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 retiree 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 from 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.”

8. Apart from this, a Coordinate Bench of this Court in *J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355*, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment 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.”

9. In view of the above factual position, the present petition is allowed and the respondents are directed to pay interest @ 6% per annum to the petitioner on the delayed payment of retiral dues w.e.f. 01.08.2021 (after a period of 03 months from the date of retirement) till the date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

29.02.2024
kothiyal

(NAMIT KUMAR)
JUDGE

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