IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-11151-2019
Date of decision : 22.07.2024

Prabhdial Singh and others …Petitioners

V/S

Punjab Water Resources Management and Development Corporation Ltd. and others ….Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Pankaj Mohan Kansal, Advocate
for the petitioners.

Mr. Sarthak Gupta, Advocate
for respondents No.1 to 3, 5 and 6.

Mr. Teevar Sharma, AAG, Punjab.

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NAMIT KUMAR, J. (ORAL)

1. The petitioners have filed the instant writ petition under Article 226 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the order dated 18.02.2019 (Annexure P-8) passed by respondent No.5, whereby the claim of the petitioners for grant of interest on the delayed payment of leave encashment and gratuity has been rejected and further seeking a writ in the nature of mandamus, directing the respondents to release the interest on the delayed payment of leave encashment and gratuity of the petitioners.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioners retired from the service of respondent No.1 on attaining the age of superannuation on different dates and they were entitled to gratuity, leave encashment and other retiral benefits.

However, no amount was paid to them towards gratuity and leave encashment at the time of their retirement. The petitioners made various personal visits and representations to respondent No.1 for releasing their gratuity and leave encashment but no amount was paid to them. After a lapse of more than one year, amount of gratuity and leave encashment were paid to the petitioners. Thereafter, the petitioners made representation to the respondents to pay interest on the delayed payment of gratuity and leave encashment but no action was taken on the same. The petitioners also served a legal notice dated 15.01.2017 to the respondents for payment of interest on the delayed payment of gratuity and leave encashment but to no avail. Thereafter, the petitioners had approached this Court by filing *CWP No.6384 of 2017 titled as 'Prabhdial Singh and others Vs. Punjab Water Resources Management and Development Corporation Limited and others*' for grant of interest on the delayed payment of retiral dues which was disposed of by this Court vide order dated 17.10.2018, with a direction to the respondents to look into and decide the legal notice dated 15.01.2017 expeditiously and preferably within a period of three months and the due amount, if any, on account of interest on delayed payment of retiral benefits, be released to the petitioners. Pursuant to the said order, respondent No.5 has passed speaking order dated 18.02.2019, rejecting the claim of the petitioners stating that the delay has been caused due to departmental correspondence and corporation is totally dependent upon the State Government for the payment of retiral benefits and the delay caused in payment of these benefits is not intentional. Hence, the present petition.

3. Learned counsel for the petitioners submits that since there is a considerable delay in releasing the gratuity and leave encashment of the petitioners, therefore, the petitioners are entitled for interest on the delayed payment of gratuity and leave encashment. He further submits that the amount of gratuity and leave encashment have been released to the petitioners in the following manner :-

Sr. No.	Name/ Designation	Date of retirement	Gratuity amount	Date of payment (Gratuity)	Leave encashment Amount	Date of payment (Leave encashment)
1.	Prabhdial Singh, T.O.	31.10.2012	4,82,625/-	12.11.2013	2,78,850/-	18.11.2014
2.	Gurdev Singh, Fitter	31.12.2012	6,88,165/-	06.01.2014	3,13,900/-	01.01.2015
3.	Baldev Raj, T.O.	30.09.2014	6,43,662/-	18.05.2015	3,48,650/-	18.05.2015
4.	Baldev Singh, T.O.	31.03.2014	8,65,501/-	18.05.2015	4,05,461/-	18.05.2015
5.	Joginder Shah, T.O.	30.06.2012	5,20,542/-	01.07.2013	2,37,440/-	10.07.2014

4. Per contra, learned counsel for the respondents-Corporation, while referring to the contents of the written statement filed on behalf of respondents-Corporation, submits that the Corporation receives funds from the Government of Punjab every month for the payment of salaries and retiral benefits. However, during the period 2012-14, a number of employees of the Corporation retired, including the petitioners, which put a strain on the already scarce financial resources of the Corporation. Therefore, the delay occurred in releasing the retiral benefits of the petitioners is entirely procedural and not intentional.

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

6. Since either before or after the retirement of the petitioners, no departmental/criminal proceedings were pending against them, therefore, the retiral benefits of the petitioners were required to be released within a reasonable time after their retirement. Since there is a considerable delay in releasing the payment of gratuity and leave enacashment to the petitioners, therefore, the petitioners cannot be denied the benefit of interest on the same.

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 and settled principles of law, the present petition is allowed and impugned order dated 18.02.2019 (Annexure P-8) is set aside. The respondent-Corporation is directed to pay interest @ 6% per annum to the petitioners, on the delayed payment of gratuity and leave encashment, w.e.f. the date of their retirement till the actual date of payment, within a period of three months from the date of receipt of certified copy of this order.

22.07.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No