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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

***

CWP-11964-2021
Date of Decision: 15.01.2024

Suresh Kumar and another
..... Petitioners

Versus

State of Haryana and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Neeraj Sheoran, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

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JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to release the interest @18% on the delayed payments of pensionary benefits to the petitioners.

2. Learned counsel appearing on behalf of the petitioners submitted that both the petitioners were working in the respondent Department i.e. HVPNL and after attaining the age of superannuation, petitioner No.1 retired as Senior Carrier Assistant on 31.07.2020 and petitioner No.2 also retired on the same date i.e. 31.07.2020 as Assistant Foreman. He further submitted that the papers/documents pertaining to the grant of pension and pensionary benefits were supposed to be submitted

about six months prior to the retirement but since towards the end of March i.e. around 24.03.2020, there was an outbreak of Covid-19 Pandemic through out the country and lockdown was imposed and thereafter even curfew was also imposed and therefore, the petitioners could not file the pension documents/papers before their retirement. He also submitted that thereafter both the petitioners retired on 31.07.2020 and because of the aforesaid reason, the documents could not be submitted in time. Thereafter, on 14.08.2020, both the petitioners submitted their documents pertaining to pension and pensionary benefits since at that point of time, the Covid-19 Pandemic was over but thereafter, the respondents although processed the pension papers but paid the pension and pensionary benefits to the petitioners after a lapse of some time for which they are entitled for interest. He further submitted that petitioner No.1 was paid the pension and pensionary benefits on 05.04.2021 and petitioner No.2 was paid the benefits on 18.03.2021. He also submitted that there has been a delay of 7-8 months in release of pension and pensionary benefits of both the petitioners and for that there is no explanation as to why there has been such a delay and consequently, both the petitioners are entitled for interest on delayed payments. He referred to the judgment of Full Bench of this Court passed in ***"A.S. Randhawa Vs. State of Punjab and others", 1997(3) SCT 468***, to contend that the pension and pensionary benefits are immediately payable to a person, who has retired, unless there is a legal impediment for not giving the same.

3. On the other hand, Mr. Gaurav Jindal, learned Addl. A.G., Haryana while referring to the reply filed by the respondents-Nigam

submitted that both the petitioners retired on 31.07.2020 and they submitted their pension documents on 14.08.2020 and thereafter, due to audit scrutiny of service book and review of 3rd ACP observations in the case of petitioner No.1 and pay fixation issues in the case of petitioner No.2, the files were moved between various offices of HVPNL and due to the aforementioned movement of files between the different offices of HVPNL and also consequent outbreak of Covid-19 Pandemic, the offices were working in a restrictive manner, the aforesaid delay had occurred and such delay was due to unavoidable circumstances which was beyond the control of answering respondents and therefore, the petitioners are not entitled for any interest on the delayed payments.

4. I have heard the learned counsels for the parties.

5. Both the petitioners had attained the age of superannuation and retired on 31.07.2020 and they could not submit their pension documents/papers before their retirement because it is well known that in the entire country, the lockdown was imposed due to Covid-19 Pandemic towards the end of March, 2020. However, the petitioners submitted the documents pertaining to pension and pensionary benefits on 14.08.2020. There are two reasons which have been referred to by the learned State Counsel while referring to reply filed by the Nigam. Firstly, due to audit scrutiny of service book and review of 3rd ACP observations in the case of petitioner No.1 and pay fixation issues in the case of petitioner No.2, the files were moved between various offices of HVPNL and secondly, due to Covid-19 restrictions, time was taken to process the files because it had to go from one office to another.

6. It is a settled law that inter-departmental movement of files in itself is no ground for delaying the pensionary benefits to any employee since grant of pension and pensionary benefits is a Constitutional Right guaranteed under Article 300-A of the Constitution of India since it is a Right to Property. Therefore, one of the grounds taken by the respondents-Nigam that due to inter-movement of files between the different offices, the delay occurred cannot be accepted. So far as the restricted working of the offices due to Covid-19 Pandemic is concerned, that also cannot become a ground for delay in pensionary benefits because even if it is restricted working, top priority should have been given to the retiral/pensionary benefits and especially in view of the fact that people were already suffering due to Covid-19 Pandemic.

7. However, since the petitioners have submitted the documents pertaining to pension and pensionary benefits after their retirement i.e. on 14.08.2020 at least two months' time is a justifiable period of time for processing the documents for which the petitioners will not be entitled for grant of interest.

8. In view of the above, the present petition is partly allowed. The petitioners shall be entitled for grant of interest @ 6% per annum after two months from the date of their retirement till the date on which the pension and pensionary benefits were disbursed to the petitioners. In other words, the right of interest shall start from 14.10.2020 till the date of disbursal. The aforesaid interest shall be paid to the petitioners within a period of three months from today after calculating the same by the respondents-Nigam. In case, the aforesaid amount is not paid to the petitioners within a period of

three months from today, then the petitioners shall be entitled for future interest @ 9% per annum instead of 6% per annum.

15.01.2024 (JASGURPREET SINGH PURI)
Bhumika JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No