



CWP-12681-2021

-2-

Talwandi Bhai-respondent No.4 and from the year 1996 onwards he has been performing duties of the post of Bill Distributor. He was sent on deputation with respondent No.5-Punjab Water Supply and Sewerage Board on 01.09.2014 and it is the case of the petitioner that he has also performed duties of Bill Distributor in the said Board. On the basis of various requests, the petitioner was granted pay scale/grade pay of the post of Bill Distributor w.e.f. 01.12.2015 by respondent No.4-Municipal Council, Talwandi Bhai, District Ferozepur i.e Basic pay of Rs.16,050 + Grade Pay of Rs.3200. The petitioner retired from service on attaining the age of superannuation on 30.04.2020, however, a sum of Rs.2,47,656/- has been recovered from the retiral dues of the petitioner on the ground that the petitioner has wrongly been granted the pay scale/grade pay of the post of Bill Distributor and whereas he was entitled for the pay scale/grade pay of the post of Sewadar. It is further the case of the petitioner that although, the retiral dues of the petitioner have been released but, however, the same have been released after a considerable delay, therefore, the petitioner is entitled for grant of interest on the delayed payment of retiral dues. The payments of retiral dues have been released to the petitioner in the following manner:-

Date of Retirement:- 30.04.2020		
Sr. No.	Date of Payment	Amount Paid
1.	18.06.2020	Rs.5,00,000/-
2.	09.09.2020	Rs.3,00,000/-
3.	10.09.2020	Rs.3,00,000/-
4.	29.10.2020	Rs.3,41,772/-

3. Separate written statements have been filed on behalf of respondent Nos.1 to 3 and respondent No.4. However, no reply has been filed by respondent

**CWP-12681-2021****-3-**

petitioner has been tried to be justified in the written statement by stating that since the petitioner was never promoted to the post of Bill Distributor, therefore, he was not entitled for the pay scale/grade pay of the said post and the pay scale/grade pay of the post of Bill Distributor was wrongly granted to the petitioner. Therefore, the same has been recovered at the time of retirement.

4. Learned counsel for the petitioner submits that petitioner has already retired from service on 30.04.2020 on attaining the age of superannuation. An amount of Rs.2,47,656/- being alleged excess payment made to him w.e.f. 2015 has been recovered from his retiral dues, at the time of retirement. He submits that the abovesaid recovery has been effected from the retiral dues of the petitioner without issuance of any show cause notice or granting any personal hearing in unilateral manner, which is not only in violation of the principles of natural justice but also against the law laid down in judgment of the Hon'ble Supreme Court passed in ***State of Punjab Versus Rafiq Masih (White Washer) and Others:2015(1) SCT 195.***

5. During the course of hearing, learned counsel for the petitioner confines his claim qua recovery of alleged excess amount and grant of interest on the delayed payment of retiral dues.

6. Per contra, learned counsel representing the contesting respondents, while referring to the averments made in the written statements submits that there is no illegality or infirmity in the impugned recovery effected as the petitioner had wrongly been given excess payment by granting pay scale of the post of Bill Distributor in year 2015 and accordingly recovery of Rs.2,47,656/- has been effected from the retiral dues of the petitioner. He further submits that some

**CWP-12681-2021****-4-**

intentional nor on account of any inadvertence on behalf of the respondents.

7. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

8. The facts are not in dispute that the petitioner joined as Sewadar in Municipal Council, Talwandi Bhai, District Ferozepur on 20.12.1983 and thereafter, he was sent on deputation on 01.09.2014 with respondent No.5- Punjab Water Supply and Sewerage Board. It is the case of the petitioner that in the Municipal Council as well as in the Punjab Water Supply and Sewerage Board, the petitioner has performed the duties of the post of Bill Distributor and he was granted the pay scale/grade pay of the post of Bill Distributor w.e.f. 01.12.2015 till his retirement. Further, at the time of retirement, a sum of Rs.2,47,656/- has been recovered from the retiral dues of the petitioner on the ground that the petitioner was wrongly paid the pay scale/grade pay of the post of Bill Distributor instead of Sewadar.

9. Even if an excess amount on the basis of wrong fixation of pay was paid to the petitioner, the same cannot be recovered from him after his retirement. The action of the respondents is totally contrary to the law laid down by the Hon'ble Supreme Court in **Rafiq Masih (White Washer) and others case (Supra)**. The relevant portion of the aforesaid judgment is reproduced as under:-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:



- (i) *Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
- (ii) *Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
- (iii) *Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) *Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- (v) *In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”*

10. The facts and circumstances of the present case suggests that it is not the case of the respondents that it was due to some fraud or misrepresentation of the petitioner, who was working against Class III post, that he was granted excess payment but it was granted by the respondents on their own.

11. In view of the above, this Court is of the considered view that the case of the present petitioner is squarely covered by Clauses (i) and (ii) of para 12 of the judgment of Hon'ble Supreme Court passed in **Rafiq Masih (White Washer) and others case (Supra)**.

12. Since either before or after the retirement of the petitioner, no departmental/criminal proceedings were pending against him, therefore, the retiral benefits of the petitioner were required to be released within a reasonable time after his retirement. Since there is a considerable delay in releasing the



CWP-12681-2021

-6-

benefit of interest on the same.

13. 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.”

14. 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



CWP-12681-2021

-7-

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.”

15. In view of the above factual position and settled principles of law, the present petition is partly allowed and the recovery of Rs.2,47,656/- effected by the respondents from the retiral benefits of the petitioner is set aside. Respondent No.4 is directed to refund the recovered amount of Rs.2,47,656/- along with interest @ 6% per annum to the petitioner, from the date the same was effected from the petitioner till its actual payment and also pay interest @ 6% per annum on the delayed payment of retiral dues w.e.f. 01.07.2020 (after two months of his retirement) till the actual date of payment, within a period of two months from the date of receipt of certified copy of this order.

16. So far as the claim of the petitioner to release all the retiral benefits as per last pay drawn attached to the post of Bill Distributor is concerned, liberty is granted to the petitioner to approach the concerned authority for redressal of the said grievance.

20.08.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No