IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-14551-2022
Date of decision : 22.03.2024

Amrik Singh and another ….Petitioners

V/S

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

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. P.M. Kansal, Advocate for the petitioners.

Ms. Arundhati Kulshreshtha, A.A.G., Punjab for respondents No.4 and 6.

None for respondents No.1 to 3 and 5.

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NAMIT KUMAR, J. (ORAL)

1. The petitioners have filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of certiorari for quashing the order dated 25.07.2019 (Annexure P-4), whereby the claim of the petitioners for payment of interest on the delayed payment of gratuity and leave encashment has been rejected and order dated 26.06.2020 (Annexure P-7), whereby an appeal filed by the petitioners against order dated 25.07.2019 has also been dismissed. The petitioners further sought a writ of mandamus directing the respondents to pay interest @ 12% per annum to the petitioners on the delayed payment of gratuity and leave encashment from the due date to the date of actual payment.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner Nos.1 and 2 retired from service on 31.01.2018 and 28.02.2018, respectively, on attaining the age of superannuation, whereas the payment of gratuity was made to them on 13.06.2018 and 20.08.2018, respectively and leave encashment was paid to them on 10.12.2018. The petitioners made representation on 25.09.2018 and thereafter, served a legal notice dated 28.01.2019 to the respondents requesting them to pay interest on the delayed payment of gratuity and leave encashment, however, no action was taken on the same. Thereafter, the petitioners approached this Court by filing CWP-6573-2019 for issuance of direction to the respondents to pay interest on delayed payment of gratuity and leave encashment. The said writ petition was disposed of vide order dated 12.03.2019 with a direction to the respondents to decide the legal notice dated 28.01.2019 by passing a speaking order, within a period of three months from the date of receipt of certified copy of the order. Pursuant to order dated 12.03.2019 passed by this Court, respondent No.5 vide order dated 25.07.2019 rejected the claim of the petitioners by passing a speaking order stating that delay has been caused due to departmental correspondence and the Corporation is totally depended upon the State Government for funds. Thereafter, the petitioners again approached this Court by filing CWP-25566-2019 seeking quashing the order dated 25.07.2019 which was dismissed as withdrawn vide order dated 12.09.2019 with liberty to file an appeal against the order dated 25.07.2019. Accordingly, the

petitioners filed appeal against that order which was rejected vide order dated 26.06.2020. Hence this petition.

3. Learned counsel for the petitioners submits that the petitioner Nos.1 and 2 retired from service on 31.01.2018 and 28.02.2018, respectively and since the retiral benefits of the petitioners were released after a considerable delay, therefore, they are 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; J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355*** and ***Davinder Kaur Vs. State of Punjab : 2021(1) S.C.T. 644.*** The details of gratuity and leave encashment paid to the petitioners is as under :-

Petitioner No.1			
Details	**Amount**	**Due Date**	**Date of Receipt**
Gratuity	10,00,000/-	31.01.2018	13.06.2018
Leave Encashment	9,08,880/-	31.01.2018	10.12.2018

Petitioner No.2			
Details	**Amount**	**Due Date**	**Date of Receipt**
Gratuity	10,00,000/-	28.02.2018	20.08.2018
Leave Encashment	6,01,938/-	28.02.2018	10.12.2018

4. Per contra, learned State counsel submits that all the retiral dues have already been released to the petitioners. However, she conceded the fact that there was some delay occurred in releasing the gratuity and leave encashment to the petitioners.

5. I have heard learned counsel for the petitioners as well as learned State counsel and gone through the relevant documents.

6. None was present on behalf of respondents No.1 to 3 & 5 on the last date of hearing and therefore, the matter was adjourned for today with an observation that no further adjournment shall be granted. Despite that none has chosen to cause appearance on behalf of the respondents No.1 to 3 & 5.

7. Since either before or after the retirement of the petitioners, no departmental proceedings/criminal case were pending against them, therefore, the retiral benefits of the petitioners were required to be released within a reasonable time after their retirement and since there is a considerable delay in releasing the same, therefore, the petitioners cannot be denied the benefit of interest on the delayed payment of retiral dues as weak financial position is no valid ground to withhold the payment in respect of the retiral benefits as held by law laid down by the Hon'ble Supreme Court and this Court.

8. 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."*

9. 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."*

10. In view of the above factual position and settled principles of law, the present petition is allowed and the respondents-Corporation is directed to pay interest @ 6% per annum to the petitioners, on the

delayed payment of retiral dues on expiry of two months from the date of their retirement (i.e. petitioner No.1 from 01.04.2018 and petitioner No.2 from 01.05.2018) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

22.03.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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