IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

246

CWP-11284-2023
Date of decision : 04.11.2024

Bhopinder Singh .....Petitioner

V/S

The Managing Director, The Punjab State Federation of Co-operative Sugar Mills Limited ....Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Vikas Singh, Advocate with
Ms. Anamika Sheoran, Advocate for the respondent.

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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 mandamus, directing the respondent to release the retiral dues of the petitioner especially the leave encashment and arrears of salary etc. along with interest @ 18% per annum on the delayed payment.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner had joined the respondent-department on 14.02.1991 as Chief Accounts Officer. He was further promoted to the post of General Manager and retired as such on attaining the age of superannuation on 30.09.2019. However, the respondent department has withheld the retiral dues of the petitioner. The petitioner requested the respondent-department to release his retiral dues vide various letters dated 21.12.2019, 10.08.2021, 22.12.2021 and 01.04.2022 but to no avail. Hence, this petition.

3. Pursuant to notice of motion, reply on behalf of the respondent has been filed wherein it has been stated as under :-

> *"xx xx xx xx xx*
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> *2. That the petitioner has concealed material facts. It has been repeatedly averred in the writ petition that the record of the petitioner is unblemished. It has been averred in para 5 of the writ petition that no departmental enquiry or any other case is pending against the petitioner. The fact is that while the petitioner was posted as General Manager of Bhogpur Cooperative Sugar Mill, there were allegations regarding embezzlement of funds in the purchase of postal stamps while conducting election of the Board of Directors of the Bhogpur CSM. There were some other allegations also. Consequently, a vigilance enquiry was pending against the petitioner. Keeping in view the vigilance enquiry which is pending against the petitioner, the leave encashment of the petitioner had been withheld. It is now vide letter dated 09.02.2024, the Vigilance Bureau Punjab had informed the Managing Director Sugarfed that, the petitioner Bhopinder Singh is not responsible for the allegations levelled against him as well as for the financial loss but Sh.Brahm Dutt Sharma, Retired Superintendent has been held responsible for not maintaining the proper record of Elections. However, the facts remains that in the writ petition the petitioner has not disclosed about the vigilance enquiry and has thus concealed material facts.*
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> *xx xx xx xx xx"*

4. Learned counsel for the petitioner submits that the petitioner has retired from service on 30.09.2019 and leave encashment amounting to Rs.11,62,198/- has been credited to the bank account of the petitioner on 13.09.2024. He submits that although during the pendency of the present petition the payment of leave encashment has been released to the petitioner, however, the same has been released after a considerable delay, therefore, the petitioner is entitled for interest on the same.

5. Per contra, learned counsel for the respondent, while referring to the averments made in the reply, submits that since a vigilance enquiry was pending against the petitioner at the time of his retirement, therefore, leave encashment of the petitioner had been withheld by the respondent and after the conclusion of the said enquiry, in which the petitioner was not held responsible for the allegations levelled against him, the leave encashment has been released to the petitioner immediately.

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

7. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 30.09.2019 and leave encashment amounting to Rs.11,62,198/- has been credited to the bank account of the petitioner on 13.09.2024 i.e. after a delay of about 05 years. The stand taken by the respondent is that due to vigilance enquiry pending against the petitioner at the time of his retirement, his leave encashment had been withheld. Since the petitioner has been discharged from the allegations levelled against him in the vigilance enquiry and there is a considerable delay in releasing the retiral dues to the petitioner, therefore, he cannot be denied the benefit of interest on the same.

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, in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, this Court 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 disposed of with a direction to the respondent to pay interest @ 6% per annum to the petitioner, on the

delayed payment of leave encashment, w.e.f. 01.01.2020 (i.e. after three months of his retirement) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

04.11.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No