248 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14532-2021 (O&M)
Date of Decision : 28-10-2024

DEVINDER KAUR SIDHU ....Petitioner

VERSUS

THE STATE OF PUNJAB AND OTHERS ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Divij Dutt, Advocate and
Mr. Parveen Jain, Advocate for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG Punjab.

<u>HARSIMRAN SINGH SETHI, J. (Oral)</u>

Mr. Divij Dutt, Advocate and Mr. Parveen Jain, Advocate appears in person and submits that unfortunately the petitioner has died hence, on their oral request, Mr. Baltej Singh Sidhu, Senior Advocate, husband of the petitioner and son of the petitioner Mr. Himmat Singh Sidhu, Advocate be impleaded as legal heirs of the petitioner in the present petition especially for the grant of release of the said benefits.

On asking of the Court, Mr. Baltej Singh Sidhu, Senior Advocate, husband of the petitioner and son of the petitioner Mr. Himmat Singh Sidhu, Advocate appeared and requested to accept the prayer of the counsel appearing on their behalf.

Learned counsel for the respondents-State raises no objection with regard to oral request as made by learned counsel for the petitioners for impleading Mr. Baltej Singh Sidhu, Senior Advocate, husband of the petitioner and son of the petitioner Mr. Himmat Singh Sidhu, Advocate as legal heirs of the petitioner.

Accordingly, Mr. Baltej Singh Sidhu, Senior Advocate, husband of the petitioner and son of the petitioner Mr. Himmat Singh Sidhu, Advocate be impleaded as legal heirs of the petitioner.

In the present petition, the grievance of the petitioner is that though the petitioner had already retired on 30.09.2020 but her retiral benefits, non-payment of which led to the filing of the present petition have been released during the pendency of the present petition and only the interest on the delayed release of the Pension Scheme is left to be given to the petitioner which is not being released and which is causing prejudice.

Upon notice of motion, the respondents have filed their reply wherein they have stated that the benefits of Pension Scheme have been released to the petitioner but the chart given shows that the same has been released after a period of two months after the retirement of the petitioner. The only ground given for the delayed release of the pension is the procedural aspect which lead to the delayed release of the pensionary benefits.

Learned counsel for the respondents submits that the petitioner was on deputation with the Chandigarh Administration hence, the Chandigarh Administration should have given the interest.

It may be noticed that the petitioner is the employee of the State of Punjab and even if the petitioner was on deputation with the Chandigarh Administration, it is the duty of the employer to release the pensionary benefits and not the Department in which the petitioner was on deputation with. Therefore, it is the duty of the State of Punjab to release the benefits as well as the interest benefit claimed therein.

The respondents have conceded that there was no impediment in the release of the pensionary benefit to the petitioner.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

As per the judgment of the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** has held that where there is an inordinate delay in the release of the pensionary benefits of an employee 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 retirer 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 front 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.*"

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 **J.S. Cheema's case (supra)** 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.*"

In the present case, no impediment has been brought to the notice of this Court and it is also a conceded position that the retiral benefits after a period of two months after retirement, which squarely covery the petitioner for the grant of interest.

Further, the respondents themselves have already released the pensionary benefits with the delay but the delay is being attributed to the procedural difficulty. The procedural difficulties, will not take away the right of the petitioner to claim the benefit of interest once, there is no justification with the respondents to withheld the same under the Rules governing the service.

Keeping in view of above, the petitioner is held entitled for interest @ 6% per annum on the delayed release of the pensionary benefits w.e.f. the date the petitioner retired till the date actual payment has been made.

Let the interest under this order be calculated and released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Present petition is disposed of in above terms.

Pending application, if any, also stands disposed of.

28-10-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO