

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-13658-2015(O&M)
Date of decision : 08.04.2024

Sukhdev Singh (since deceased) through LRs

... Petitioners

Versus

The State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.R.S. Khosla, Senior Advocate with
Mr.Yogender Verma, Advocate
for the petitioner.

Ms.Akshita Chauhan, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 18/23.06.2015 (Annexure P-10) by means of which an inquiry has been initiated against the petitioner without serving him with a charge sheet.
2. On 19.03.2024, this Court was pleased to pass the following order:-

“Learned Senior counsel for the petitioner has submitted that although, on 13.07.2023, it was stated on behalf of the State that orders have been passed releasing the pensionary benefits of the petitioner(s) as well as other retiral/pensionary benefits but gratuity has not been released to the petitioner(s) till date.

Learned State Counsel prays for a short adjournment to file an affidavit to the effect as to whether gratuity has been released or not and in case the same is not released then the reason for the same and the time within which the same would be released and also to get instructions as to

for what time period, the gratuity has not been released in case the same is not released to the petitioner.

Adjourned to 08.04.2024.

To be taken up at 12:00 pm.

A photocopy of this order be placed on the file of other connected case.

19.03.2024”

3. Learned senior counsel for the petitioner has submitted that the gratuity has been released to the L.Rs of the petitioner in the morning today i.e., 08.04.2024. It is submitted that the same has satisfied the substantial claim of the petitioner but has further submitted that the gratuity should have been paid to the widow of the petitioner on 02.12.2021 as the petitioner died on 02.12.2021 but the same has been paid after much delay and on the same, reasonable interest should be paid. Learned senior counsel for the petitioner has relied upon the judgment of a Coordinate Bench of this Court in ***CWP no.15867 of 2001*** titled as ***“J.S. Cheema vs. State of Haryana and others”***, decided on 20.11.2013.

4. Learned State counsel has opposed grant of said interest in favour of the petitioner.

5. The Coordinate Bench of this Court in ***J.S. Cheema’s*** case (supra), has held as under:-

“1 to 3. xxx xxx

4. In the written statement, the plea taken is that the petitioner submitted his pension papers very late and that is why some delay was caused in the disbursal of his retiral benefits.

5. In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.

6. *Learned Assistant Advocate General has further argued that some reasonable time has to be granted for processing the papers and the requirement of law is not that strict that interest must be ordered from the first day after retirement. I find some weight in this assertion.*

7. *Learned counsel for the petitioner has argued that as per the Government instructions the period of three months has to be taken as maximum period within which the retiral benefits has to be released. After deducting those three months there is still a delay as mentioned above.*

8. ***In the circumstances, I hold the petitioner entitled to interest @ 8% p.a. on the delayed payment of retiral benefits. The interest will become due w.e.f. 01.05.2000. Let the interest on the above components i.e. gratuity, arrears of pension and leave encashment be computed @ 8% p.a. from 01.05.2000 till the date of payment and the same be released to the petitioner within a period of two months from the date of receipt of a certified copy of this order, failing which, the petitioner would be entitled to claim the same with interest @ 9% p.a.***

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of."

A perusal of the above judgment would show that in the said case, the plea taken in the written statement was to the effect that the papers submitted by the petitioner therein were after considerable delay but the said plea was rejected by the Coordinate Bench of this Court by observing that the jurisprudential basis for grant of interest to a person was that the said person's money had been used by somebody else and thus, even if there was no negligence on the part of the State, it could not be denied that money which rightly belonged to the employee, was in the custody of the State and was being used by it and thus, interest at the rate of 8% per annum was granted to the petitioner therein on the delayed payment of retiral benefits. A period of three months was taken to be sufficient period for release of retiral benefits and thus, the said interest was granted to the petitioner

therein after a lapse of the said three months. The said judgment in view of this Court applies with all force in the present case as it cannot be disputed that the gratuity should have been paid to the widow of the petitioner from 02.12.2021, the date on which the petitioner had died and thus, the said amount has been retained by the State.

6. Keeping in view the above said facts and circumstances, the present writ petition is allowed and the petitioner is held entitled to the interest at the rate of 6% per annum on the delayed payment of gratuity benefits and the said interest would accrue to the petitioner w.e.f. 02.03.2022 till the date of actual payment. It is further directed that the said amount be released to the petitioner within a period of two months from the date of receipt of certified copy of the present order, failing which the petitioner would be entitled to claim the same with interest at the rate of 8% per annum.

(VIKAS BAHL)
JUDGE

April 08, 2024
Davinder Kumar

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