

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237

CWP-17664-2022
Decided on :06.03.2024

Raj Kumar

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Joginder Siwach, Advocate and
Mr. Rajeev Dev Sharma, Advocate
for the petitioner.

Ms. Neha Sonawane, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

1. Present Civil Writ Petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari, mandamus or any other suitable writ, order or direction to pay adequate interest on the retiral benefits that were released to the petitioner at a delayed stage.

2. The undisputed facts in the present case are that the petitioner was appointed as a Ward Servant on 11.03.1982 and retired on 31.12.2020 as a Ward Servant. The petitioner received a GPS amount of Rs.15,79,275/- on 25.06.2021, Gratuity amount of Rs.8,50,343/- on 27.07.2021, Leave Encashment amount of Rs.4,85,910/- on 18.08.2021 and GIS amount of Rs.9669/- on 25.06.2021.

3. This Court vide judgment dated 21.02.2024 passed in CWP-8877-2021 titled as *Amrit Pal Singh Julka Vs. State of Punjab and others* has held as under:-

7. 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 amounts which have been paid to the petitioner after the delay as mentioned in the chart

reproduced hereinabove, were due to the petitioner and were retained by the State.

8. *Keeping in view the abovesaid facts and circumstances, the present writ petition is allowed and the petitioner is held entitled to the interest at the rate of 8% per annum on the delayed payment of retiral benefits and the said interest would accrue to the petitioner w.e.f. 31.10.2018 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 9% per annum.”*

4. Learned State counsel has not been able to dispute the applicability of the judgment passed by this Court to the present case, which was also in the case of State of Punjab.

5. Keeping in view the abovesaid facts and circumstances, the present Writ Petition is allowed and the petitioner is held entitled to the interest @ 8% per annum on the delayed payment of retiral benefits and the said interest would accrue to the petitioner w.e.f. 31.03.2021 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 9% per annum.

(VIKAS BAHL)
JUDGE

06.03.2024
Mehak

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