



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CWP-11037-2018 (O&M)
Date of decision : 24.07.2024

Bhim Singh (since deceased) through his LRsPetitioner

V/S

State of Haryana and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Shubham Kashyap, Advocate for
Mr. Sandeep Singal, Advocate for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

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 certiorari, quashing the order dated 07.11.2017 (Annexure P-8), passed by respondent No.3, whereby, by holding the date of birth of the petitioner as 04.03.1947, final order on the charge-sheet issued to the petitioner has been passed. Further sought a writ in the nature of mandamus, directing the respondents to release the salary of the petitioner from 01.08.2013 to 16.09.2013 and his pension and other retiral benefits w.e.f. 16.09.2013 i.e. the date of his compulsory retirement, with all consequential benefits along with interest @ 18% per annum on the delayed payment.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner joined his services in the respondent-Department as work-charged employee on 07.04.1975 and later on his

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services were regularized against the post of Beldar w.e.f. 01.10.2003. At the time of joining the regular service, the date of birth of the petitioner was not ascertained due to non-availability of any authentic document. Hence, the petitioner was directed by the Department to furnish declaration in the shape of affidavit affirming his approximate date of birth and to get medically examined himself from Chief Medical Officer, Rohtak. In pursuance to the said directions, the petitioner got himself medically examined from Chief Medical Officer, Rohtak on 05.08.2004 and his age was ascertained as 51 years as on 05.08.2004. He has also furnished affidavit dated 15.07.2004 declaring his date of birth as 24.11.1953 and the said date was entered in the service record of the petitioner. According to the said date of birth, the petitioner was to retire from service on 30.11.2013 on attaining the age of superannuation. However, in April 2004, a written complaint by one Ram Kanwar against the petitioner was received in the Department alleging therein that the petitioner has given his wrong date of birth in the Department. On receiving the said complaint, respondent No.3 without holding any formal enquiry, ordered the compulsory retirement of the petitioner, vide order dated 16.09.2013, subject to the final outcome of charge-sheet. Charge-sheet dated 16.09.2013 was issued to the petitioner alleging therein the charges of giving false affidavit affirming his date of birth as 24.11.1953. After conducting regular departmental enquiry, the enquiry officer submitted his report dated 23.02.2015 vide which the charges against the petitioner were not proved. Thereafter, the petitioner made representation dated 27.07.2017 seeking release of his pension and other retiral benefits but to no avail.



Thereafter, vide order dated 07.11.2017, respondent No.3 passed final order on the charge-sheet of the petitioner by holding his date of birth as 04.03.1947 in complete disagreement to the enquiry report submitted by the enquiry officer. Hence, the present petition impugning the order dated 07.11.2017.

3. During the pendency of the present petition, the petitioner has unfortunately died on 27.01.2020 and his LRs have been impleaded as party vide order dated 03.03.2020.

4. The case was heard by a Coordinate Bench of this Court on 25.07.2022 and the following order was passed :-

“Learned State counsel submits that the relief, for which, the petitioners are entitled for, have already been extended by the respondents to them.

Learned counsel for the petitioners submits that the benefit of daily wage service has not been given to the petitioner to be treated as qualifying service for computing pensionary benefits.

Learned State counsel is directed to file a specific affidavit with regard to the qualifying service, for which, benefit has been extended to the petitioners.

Adjourned to 22.11.2022.”

5. In pursuance to the aforesaid order, affidavit dated 04.10.2023 of respondent No.3 has been filed. In the said affidavit it has been stated as under :-

“xx xx xx xx xx

3. That daily wages service for the petitioner is calculated from the date 31.01.1996 to 16.09.2013 and is treated as qualifying service for the computing pensionary benefits.

4. That all the daily wages benefits for the qualifying service period i.e. 31.01.1993 to 31.01.1996 of said Bhim Singh have been released in the bank account of his legally wedded wife, Smt. Angoori; after his death.

xx xx xx xx xx



Thus no benefit/arrears is pending towards to the department in regard to the petitioner.”

6. Learned counsel for the petitioner submits that although all the retiral benefits have been released to the petitioner during the pendency of the instant petition, however, the same have been released after a lapse of more than nine years. Since there is a considerable delay in releasing the retiral benefits of the petitioner, therefore, the petitioner is entitled for interest on the same. During the course of arguments, learned counsel for the petitioner confines his prayer qua grant of interest on the delayed payment of retiral benefits. He further submits that the retiral benefits of the petitioner have been released in the following manner :-

Sr. No.	Particulars	Amount (Rs.)	Date
1.	Salary for the period from 01.08.2013 to 16.09.2013	31,278/-	10.06.2022
2.	GIS Amount	5,040/-	10.06.2022
3.	Leave Encashment	92,910/-	03.07.2022
4.	DCRG calculated and paid by Treasury office		
	(Pension Arrear)	3,52,597/-	29.08.2022
	(Pension Arrear)	7,22,832/-	26.09.2023
	(Gratuity Arrear)	1,62,593/-	26.09.2023
5.	Revised pension started from July, 2022	13,060/-	30.08.2022
6.	Daily Wages Benefits arrear	27,873/-	26.09.2023

7. Per contra, learned State counsel submits that a charge-sheet dated 16.09.2013 was issued to the petitioner alleging the charges of giving false affidavit affirming his date of birth as 24.11.1953, whereas as per information sought from the Principal, Government



Senior School, Khidwali, Rohtak, the actual date of birth of the petitioner is 04.03.1947. The petitioner was compulsory retired from service on 16.09.2013. Due to pendency of the said charge-sheet the delay occurred in releasing the retiral benefits of the petitioners which is entirely procedural and not intentional. He further submits that since all the retiral benefits of the petitioner have already been paid, therefore, the instant petition has been rendered infructuous.

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

9. Admittedly, the petitioner was compulsory retired from service on 16.09.2013. Despite that his retiral benefits have been released after a period of more than 09 years. Since there is a considerable delay in releasing the payment of retiral benefits to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

10. 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.”

11. 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.”

12. In view of the above factual position and settled principles of law, the present petition is allowed with a direction to the respondents-Department to pay interest @ 6% per annum to the legal representatives of the petitioner, on the delayed payment of retiral benefits, w.e.f. 17.12.2013 (i.e. after three months of compulsory retirement of the petitioner) till the actual date of payment, within a period of three months from the date of receipt of certified copy of this order.

24.07.2024
kothiyal

(NAMIT KUMAR)
JUDGE

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