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

(215) **CWP-18295-2016**
Date of Decision: 07.02.2024

Kamla Gulati ………Petitioner

Versus

State of Punjab and anr. ……....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sanjeev Kumar Bawa, Advocate, for the petitioner.

Mr. T. P.S. Walia, AAG, Punjab.
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NAMIT KUMAR, J.(ORAL)

1. By way of present writ petition filed under Articles 226/227 of the Constitution of India, prayer has been made for issuance of a writ in the nature of Certiorari for quashing the Order dated 09.07.2015 (Annexure P-12) and Order dated 09.02.2016 passed by the respondents (Annexure P-15), with a further direction to release the amount of GIS.

2. During the course of the hearing, learned counsel for the petitioner confines his prayer to the grant of interest on the retiral dues of the petitioner. He submits that petitioner has retired on attaining the age of superannuation on 31.10.2012 as Senior Assistant. However, without any justifiable reasons, the retiral benefits of the petitioner were not released and the same have been released after a considerable delay. The details showing the delay in release of retiral benefits is as under:

Sr. No.	Head	Amount paid	Delay in disbursement
1.	General Provident Fund (GPF)	Rs.29,60,247/-	4 months and 13 days
2.	Death-cum-Retirement Gratuity (DCRG)	Rs.6,91,251/-	8 months and 11 days

3.	Leave Encashment	Rs.4,36,710/-	1 year and 6 months
4.	Group Insurance Scheme (GIS)	Rs.38,740/- on 26.12.2016	4 years and 2 months

3. Learned State counsel has referred to para No.3 of the written statement to justify the delay occurred in releasing the DCRG and the same read as under:

> "*That with regard to releasing the payment of DCRG, it is submitted that the sanction was issued on 06.12.2012 by answering respondent for which bill was sent to Treasury on 28.12.2012. The bill returned on 31.03.2013 due to administrative reasons. The same was again sent to Treasury on 22.04.2013 which was again returned on the ground that sanction of the payment of DCRG was lapsed, the answering respondent again re-submitted the bill and the payment of which was made on 14.06.2013. In this way there is no lapse on the part of answering respondent.*"

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

5. It is a well settled law that the retiral benefits of the employee is his property and the same cannot be withheld without any justifiable reasons.

6. It is an admitted fact that the petitioner was not under cloud at the time of his retirement, therefore, she is entitled for the release of her retiral benefits at the time of retirement or within reasonable period.

7. 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 retiral 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."

8. Apart from this, the 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 reproduced 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."

9. In view of the above factual position and settled proposition of law, this Court is of the view that the petitioner is entitled for grant of interest @ 6% per annum on the delayed payment from the date of retirement of the

petitioner till the date of actual payment, which shall be paid by respondent No.3 after calculating the same, within a period of 02 months, from the date of receipt of certified copy of this order.

10. The present petition is disposed of in the above terms.

(NAMIT KUMAR)
JUDGE

07.02.2024
anil

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