

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-14372-2023
Date of decision : 06.03.2024

Kamal KumarPetitioner

V/S

State of Punjab and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Peeush Gagneja, Advocate for the petitioner.
Ms. Arundhati Kulshreshtha, A.A.G., Punjab.
Mr. S.S. Chatrath, Advocate for respondent No.4.
Mr. Sarthak Gupta, Advocate for respondents No.5 to 7.

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 mandamus for directing the respondents to release the remaining amount of service-cum-retirement dues of the petitioner including pension, gratuity, provident fund, leave encashment, revised pay scale, arrears of revised pay scale and all other benefits, along with interest for the delayed payment of retiral dues.
2. Reply on behalf of respondent No.4 has been filed in the Court which is taken on record. In the said reply it has been stated that the petitioner has voluntary retired from service on 31.01.2023 and his case for grant of pension was received by the office of respondent No.3 on 09.08.2023 and vide order dated 06.09.2023 his pension along with

arrears to the tune of Rs.2,59,826/- for the period w.e.f. 01.02.2023 to 31.08.2023 stands duly paid to him and he is getting regular pension from 01.09.2023 onwards. With regard to other pensionary benefits, it has been stated as under :-

“xx xx xx xx xx

That the total amount of Rs.2543448// was payable to the petitioner towards his retiral benefits including an amount of Rs.1370510/- as Gratuity, Rs.742360/- as leave encashment and Rs.430573/- as GPF. Out of this amount, the petitioner has already received an amount of Rs.2083778/- while an amount of Rs.459673/- remains to be paid, which would be paid soon. The above said amount of Rs.2083778/- has been paid to the petitioner through various payments made since his retirement on 31.01.2023. The details of the payment of retiral benefits paid to the petitioner are as under :-

Sr. No.	Date	Cheque No.	Amount
1	01.02.2023	297614	Rs.100000/-
2	03.04.2023	086605	Rs.200000/-
3	03.04.2023	086606	Rs.200000/-
4	19.05.2023	153493	Rs.430575/-
5	25.07.2023	087340	Rs.400000/-
6	20.09.2023	316042	Rs.553197/-
7	---		Rs.200000/-
	Total		Rs.2083775/-

True translated copy of the retiral benefits paid to the petitoiner as is appended herewith as Annexure R4-3.

5. *That as regards the demand of interest on delayed payment of the retrial dues to the petitioner, it is submitted*

that all retiral benefits of the petitioner has been paid well within time and hence the question of payment of any interest does not arise at all. However, in case the Hon'ble Court comes to the conclusion that the petitioner is entitled to interest, if any, the answering respondent, the undertakes to comply the directions so passed by the Hon'ble Court.

6. That all the retiral benefits except an amount of Rs.459673/- stands duly paid to the petitioner and the above said remaining amount would be paid soon. As regards the claim of the petitioner to the arrears of revised gratuity and revised leave encashment, as mentioned above the same can only be paid as and when approved by the state government.

xx xx x x xx xx xx''

3. Learned counsel for respondent No.4 submits that even the amount of Rs.4,59,673/- has also been released to the petitioner in two installments i.e. amount of Rs.2,00,000/- on 20.12.2023 and Rs.2,59,673/- on 15.01.2024. He further submits that the claim of the petitioner has already been satisfied, therefore, the present petition may be disposed of as infructuous.

4. Learned counsel for the petitioner restricts his claim in the present writ petition with regard to the release of pensionary benefits and submits that though the pensionary benefits of the petitioner have now been released, however, the same have been released after a considerable delay for which he is entitled for grant of interest on the delayed payment of retiral dues. In support of his submission, he has placed reliance upon the judgment passed by a Full Bench of this Court

in *A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468* and *J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355*.

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

6. It is an admitted fact that no disciplinary proceedings/criminal case were pending against the petitioner before or after his retirement which would entitle the respondents to withhold his pensionary benefits.

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 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, 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.”

9. In view of the above factual position, the present petition is allowed and the respondents are directed to pay interest @ 6% per annum to the petitioner on the delayed payment of retiral dues w.e.f. 01.04.2023 (after a period of 02 months from the date of retirement) till the actual date of payment (as detailed on page 2 of the order), within a period of 02 months from the date of receipt of certified copy of this order.

06.03.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No