

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

217

CWP-18249-2017
Date of decision: 28.02.2024

Ram Lubhaya ...Petitioner

Versus

Punjab State Power Corp. Ltd. and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. K.L. Arora, Advocate for the petitioner.

Ms. Promila Nain, Advocate for the respondents.

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 of mandamus for issuance of directions to the respondents to grant 18% interest on the delayed payments of retiral benefits such as gratuity, arrears of pension and arrears on account of release of time bound promotional scales after 09 years and 16 years of service.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner joined the service of the respondents as Store Munshi on work charge basis on 01.03.1977 and thereafter as regular Telephonist from 05.08.1978. He was promoted to the post of Upper Division Clerk in 1987 and thereafter, as Revenue Accountant on 02.04.1991, and retired as such on 30.04.2010, on attaining the age of superannuation of 58 years.

3. It is the case of the petitioner that pursuance to the financial circular dated 23.04.1990, the petitioner was entitled for grant

of time bound promotional scales on completion of 09 years and 16 years of service w.e.f. 01.04.2000 and 01.04.2007, respectively. He submitted application/option dated 11.05.2001 for the release of 09 years promotional scale and thereafter, on 15.10.2008 he submitted another application/option for the release of 16 years time bound promotional scale, however, despite submitting various representations including representation dated 30.06.2014, the said benefits were not granted to him which compelled him to approach this Court by filing CWP No.25651 of 2014, which was disposed of vide order dated 16.12.2014 with a direction to decide the representation of the petitioner by passing a speaking order, within a period of 03 months and in pursuance thereto, vide order dated 16.04.2015 (Annexure P-3), the petitioner was granted the 09 year time bound promotional scale w.e.f. 01.04.2005 and 16 years time bound promotional scale w.e.f. 01.04.2008. It has further been submitted that the retiral dues of the petitioner were released after a considerable delay and the details of the payments received by the petitioner are as under :-

Sr. No.	Item	Amount due	Date of Retirement	Due date of payment	Payment made by respondents on	Delayed period of interest
1	2	3	4	5	6	7
1.	Gratuity	73,508/-	30.04.2010	01.05.2010	07.01.2016	5 years 8 months
2.	Arrears on account of release of Time Bound Promotional Scales after 9 years and 16	1,44,496/-	30.04.2010	01.04.2005 for 9 years Promotional Scale	21.07.2015	10 years 3 months and 20 days
			30.04.2010	01.04.2008 for 16	21.07.2015	7 years 3 months

	years of service			years Promotional Scale		and 20 days
3.	Arrears of pension on release of promotional scale of 9 years and 16 years of service	1,70,100/-	30.04.2010	01.05.2010	01.03.2016	5 years 10 months

Since the payment of gratuity, arrears of pension and arrears on account of time bound promotional scales have been released to the petitioner after a considerable delay, therefore, he is entitled for the grant of interest.

4. Reply on behalf of the respondents has been filed, wherein it has been stated as under :-

“5. That the content of Para No.5 are matter of record as per as the sanction of 9 years time bound and 16 years time bound promotional scales are concerned. However, the petitioner was not given the scale due to the pendency of chargesheets/show cause notices as same were not decided :

(Charge Sheet/Show Cause Notice)	Office Order vide which the same were decided	List of Imputation/Show Cause Notices and decisions
SCN No.174/ 17.05.2011	686/20-09-2013	Recovery of amount equivalent to one year promotion.
SCN No.C-361/ 12.11.2009	446/21-06-2011	5% deduction in the pension for one year.
CS No.909/ 18.12.2009	645/07-04-2011	5% deduction in the pension for six months.
SCN No.848/ 26.08.2008	430/01-03-2011	5% deduction in the pension for Six months.

CS No.875/ 17.02.2009	957/11-07-2011	5% deduction in the pension for one year and the period of suspension from 05.12.2008 to 19.12.2009 was regularized by treating the period on leave.
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The service book of the petitioner remained incomplete due to the punishments awarded to him time to time in various enquiries, charges against him, hence the benefit of 9/16 years was not granted from time to time.”

5. Thereafter, on filing of replication by the petitioner, the respondents have filed additional affidavit dated 21.04.2022, wherein it has been stated as under :-

“2. That the petitioner has promoted as Revenue accountant on 02.04.1991. He has given option to assume his post of RA as induction post for 9/16 yrs of Time Bound Promotional Scale.

3. That assuming RA as his induction post for time bound promotional scale his 9 yrs promotional scale was due on 01.04.2000 and his 16 yrs promotional scale was due on 01.04.2007 as per stipulated time gaps as per rules of PSPCL.

4. That the Retired employee has given application on 11.05.2001 for 8 yrs proficiency step and 9 yrs time bound promotional scale. 8 yrs proficiency step up had not considered because department has stopped benefit of 8 yrs step in year 1996.

5. That after completion of 9 yrs of service 9 years time bound promotional scale was not granted to employee because of his own service deficiencies because he was issued show cause notice no. C-479 dated 18.03.1999 by Chief Engineer Central Zone PSPCL Ludhiana, in which he was awarded with punishment of stoppage of 2

increments vide office order No. 1200 dated 06.12.2002. Due to which his case of 9 yrs time bound promotional scale couldn't be considered till decision of SCN.

6. That the punishment of stoppage of 2 increments has degraded his benchmarks (Points necessary to attain Time bound promotional Scale and promotions as well). Because of reduced benchmarks his case couldn't be considered for 9 yrs on time. Cases in which benchmarks are not completed on due date then according to regulations of PSPCL employee's promotional scales are given when he/she completes benchmarks (Based of ACR's).

7. That his rule has also applied in this case. That retired Employee has completed benchmarks on dated 01.04.2005. He has been awarded 9 yrs TBPS on 01.04.2005 vide CFO PSPCL Patiala office order No.-245 dated 16.04.2015 and 16 yrs w.e.f. 01.04.2008.

8. That he has not been awarded his promotional scales on time because of his service discrepancies. His record was not neat and clean and the time of due date of promotional scales and his service book got completed very late due to chargesheets and SCN's issued to him by the department due to his own service record.

9. That the department is not at any fault in granting TBPS to retired employee on time.”

6. Learned counsel for the petitioner submits that since there is a considerable delay in releasing all the retiral benefits of the petitioner such as gratuity, arrears of pension and arrears on account of grant of time bound promotional scales after 09 years and 16 years of

service, ranging between 05 years to 07 years, therefore, he is entitled for grant of interest.

7. On the other hand, learned counsel for the respondents submits that since the service record of the petitioner was not clean at the time of due date of promotional scales and his service book got completed very late due to the charge-sheets and show cause notices issued to him by the department, therefore, the petitioner is not entitled for grant of interest.

8. I have heard learned counsel for the parties and gone through the record with their assistance.

9. Admittedly, the petitioner retired from service on attaining the age of superannuation on 30.04.2010. After his retirement he was granted the benefit of time bound promotional scales after 09 and 16 years of service w.e.f. 01.04.2005 and 01.04.2008, respectively. All the charge-sheets/show cause notices issued to him were concluded prior to 20.09.2013. There was no justifiable reasons forthcoming for withholding the said benefits after 20.09.2013, therefore, the petitioner is held entitled for the grant of interest w.e.f. 20.09.2013 till the date of actual payment.

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 disposed of with a direction to the respondents to pay interest @ 6% per annum to the petitioner on the delayed payment(s) of retiral dues such as gratuity, arrears of pension and arrears on account of release of time bound promotional scales after

09 and 16 years of service, w.e.f. 20.09.2013, till the actual date of payment(s). The necessary calculations be made and the interest amount shall be released to the petitioner within a period of 03 months from the date of receipt of certified copy of this order.

28.02.2024
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(NAMIT KUMAR)
JUDGE

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