



CWP-18850-2017 (O&M)

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

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CWP-18850-2017 (O&M)
Date of Decision :30.09.2024

Krishna Kumari

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Narinder Pal Sharma, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)**CM-15858-CWP-2024**

As prayed for, application is allowed.

Replication to the written statement filed on behalf of
respondent No.2 is taken on record.

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In the present petition, two grievances have been raised by the petitioner. One, that she has been paid less amount qua her entitlement to the tune of 21 days of unutilized earned leave at the time of her retirement. Further, as her pensionary benefits have been released after the delay of more than four months by the respondents, she is entitled for the grant of benefit of interest on the said delayed release of her pensionary benefits.

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Learned counsel for the petitioner submits that the petitioner attained the age of superannuation on 28.02.2015 and, thereafter, claimed the benefit of extension in service for a period of two years and ultimately after availing the benefit of extension, she retired from service on 28.02.2017.

The petitioner claimed that during the period of extension in service, the petitioner had only availed 29 days of earned leave and hence, as she was entitled for 300 days of earned leave, she should have been given complete leave encashment of 300 days as admissible under the rules governing the service and hence, respondents are liable to be directed to grant the petitioner the benefit of remaining 21 days of earned leave as well.

Further, prayer of the petitioner is that her pensionary benefits were released in June, 2017 and there is delay of more than 04 months in the release of the said pensionary benefits and hence, she is entitled for the grant of benefit of interest.

As per the respondents, the petitioner after availing the benefit of extension in service, sought 29 days of earned leave from 04.06.2015 to 02.07.2015 and keeping in view the extension granted to the petitioner from 01.03.2015 to 28.02.2017, as on 04.06.2015, she only had 08 days earned leave in her leave account and hence, when she availed 29 days leave, the rest 21 days leave was required to be deducted from the total kitty of 300 days.

With regard to the release of pensionary benefits, the respondents have stated that due to some technical reason, the bills sent to the District Treasury were not passed and after receiving clarification, the

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bills were passed on 27.06.2017 and payment were made to the petitioners thereafter.

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

With regard to the claim of the petitioner for the encashment of 300 days earned leave, it may be noticed that when an employee retires on attaining the age of superannuation at the age of 58 years, he/she is entitled for maximum of 300 days of leave encashment. In order to make an employee work during the extension period, employee is only entitled to avail the earned leave in case, the same is admissible during the period he/she has worked on extension and in case, employee avails more leave than entitled on the day when the leave is claimed, while working on extension, the same is to be deducted from the total kitty of 300 days so that the employee does not apply for extension only to adjust the unutilized earned leaves as only encashment of 300 days is admissible.

In the present case, the respondents are on record to say that while on extension in service, on 04.06.2015 the petitioner only had 8 days earned leave and she had availed 29 days of leave hence, 21 days leave which is more than the leave admissible during the extension period at the time when the petitioner availed earned leave, same is to be deducted from the total kitty of 300 days leave, which was admissible to the petitioner at the time of her retirement. The said action taken by the respondents cannot be treated as arbitrary and illegal as the petitioner could not have availed more earned leave than admissible to her as on 04.06.2015 while on extension. Hence, claim of the petitioner to grant her 21 days leave



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adjustment is right denied by the respondents.

With regard to the claim of the petitioner for the grant of benefit of interest on the delayed release of her pensionary benefits, a Full Bench of this Court in *A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*, has held that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case, there is no impediment, failing which, an employee concerned is entitled for the grant of benefit of 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.”

In the present case, the petitioner retired from service after availing the benefit of extension on 28.02.2017 but her retiral benefits have been released on 27.06.2017 without there being any impediment. As per the respondents there was certain technical glitch and after giving the clarification, the pensionary benefits were released to the petitioner, which delay was only on the part of the respondents hence, the petitioner is held entitled for the grant of benefit of interest on the delayed release of her



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pensionary benefits @ 6% per annum from the date the same became due till the actual payment of the same.

Present petition is disposed of in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

September 30, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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