2024:PHHC:060142

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1939 of 2018 (O&M)
Date of decision: 01.05.2024

Krishan Goyal
....Petitioner

Versus

Punjab State Civil Supplies Corporation Limited (PUNSUP)
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Anamika Sheoran, Advocate
for Mr. Vikas Singh, Advocate for the petitioner.

Mr. Gursimranjit Singh, Advocate
for the respondent.

NAMIT KUMAR J. (Oral)

1. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of mandamus for directing the respondents to pay interest @ 18% per annum on account of delay in payment of retiral benefits.

2. The brief facts of the case, as have been pleaded in the present petition, are that the petitioner joined the services of Punjab State Civil Supplies Corporation Limited (PUNSUP) on 30.04.1976 and he retired on 30.06.2011 as Inspector Grade-II. It has been averred that the retiral benefits of the petitioner were withheld due to pendency of charges regarding recovery of Rs.59,51,836/- vide charge-sheet dated 23.02.2007. There was another charge-sheet dated 23.07.2001, in which the allegations was with respect to Paddy for the year 1997-98 and the said charge-sheet was concluded vide order dated 30.01.2007/23.02.2007, whereby punishment of stoppage of two

increments with cumulative effect was imposed and it was further ordered by the punishing authority that if the amount, which is the subject-matter of the arbitration case is not received from the miller then, the petitioner will be responsible to pay the amount of loss and if arbitration case against the miller is not decided prior to retirement of the petitioner then the retirement benefits may be kept in abeyance and if the petitioner is found responsible for any recovery, the same should be recovered from the retirement benefits to which he may be entitled and the action may be taken according to law for the recovery of the balance amount.

3. The petitioner filed an appeal against the order dated 30.01.2007/23.02.2007, before the Appellate Authority, which was decided vide order dated 05.05.2015 (Annexure P-3) and the punishment of stoppage of two increments with cumulative effect was maintained but, however, the order of recovery was withdrawn in view of the award given by the Arbitrator, which came in favour of PUNSUP.

4. Thereafter, the Managing Director vide order dated 19.09.2016, ordered the release of retiral benefits of the petitioner and consequently, the retiral dues to the tune of Rs.8,48,434/-, were paid to the petitioner vide order dated 30.12.2016 and in pursuance thereto, the petitioner was paid leave encashment to the tune of Rs.2,81,010/- on 13.02.2017 and gratuity to the tune of Rs.5,67,424/- on 14.02.2017. The petitioner stood retired on 30.06.2011, and whereas the retiral benefits were paid to him in February, 2017.

5. The petitioner submitted a detailed representation dated

18.06.2017 (Annexure P-6), for payment of interest on account of delayed payment of retiral benefits. The same was replied by the respondent – Corporation wherein it was submitted that since the recovery proceedings were pending against the petitioner and as soon as the proceedings were concluded, the retiral dues were released.

6. On issuance of notice of motion, reply by way of affidavit has been filed on behalf of the respondent – Corporation, wherein it has been stated as under:-

> *"XXXX XXXX XXXX XXXX*
>
> *2) That the petitioner retired from the services of the Respondent Corporation as Inspector Grade-II on 30.06.2011 vide order dated 29.06.2011 on attaining the age of superannuation. The retiral benefits were withheld/kept in abeyance in view of the recovery orders of Rs.59,51,836/- to be effected from the petitioner alongwith other officials and court cases/recovery suits pending against the petitioner, details of which are as under:-*
>
> > *I. While deciding the Charge Sheet No. Admn-Sangrur(49)-2001/7943 Dated 23.07.2001 issued to the petitioner for the embezzlement of paddy crop year 1997-98 in the punishment orders dated 23.02.2007 it was mentioned that if the loss of Rs. 59,51,836/- is not recovered from the miller, then the same be recovered from the petitioner along with other officials responsible.*
> >
> > *II. The petitioner had filed an appeal against the above order before the Appellate Authority which was decided on 05.05.2015 as under:-*
> >
> > *III. Appellate Committee after hearing both the sides and in wake of taking into account the fact that in this case award given by the Arbitrator, Sh. J.P.S.*

> *Puri has come in favour of PUNSUP, as such, recovery of Rs. 59,51,836/- imposed upon Sh. Krishan Goel, Inspector Grade-ll is hereby withdrawn. However, punishment of stoppage of two increments with cumulative effect given by the Managing Director vide its orders dated 23.02.2007 is hereby confirmed."*

3) A recovery suit was filed in 2007 for the recovery of the amount of Rs. 1,47,39,550/- was also pending against the petitioner before the Civil Judge (Senior Division), Sangrur, which is an admitted fact by the Petitioner itself and others at the time of his retirement, the detail of recovery suit is as under:-

Principal amount on account of less excess and shortage of stocks:-

Crop Year 2001-02	*98,51,098/-*
Interest	*48,88,452/-*
Total	*1,47,39,550/-*

4) In the above said recovery suit petitioner was also responsible. For the above said shortages petitioner was also Charge Sheeted vide Charge Sheet No. Amla-Sangrur(91)- 2004/15387 dated 13.12.2004 which was decided vide Head Office Order No. Amla-Sangrur(91)-2011/33321-24 dated 18.03.2011 and the Charge Sheet was filed. Keeping in view the decision taken in the Charge Sheet dated 13.12.2004 the Competent Authority had decided to withdraw the name of the petitioner from the above said Civil Suit.

5) That it is submitted that the Competent Authority passed the order dated 05.05.2015 of withdrawing the recovery suit of the amount of recovery of Rs. 59,51,836 against the Petitioner.

6) That it is submitted that after the order dated 05.05.2015 it was instructed to the concerned official to *file an application for withdrawal of the name of the Petitioner from the said civil suit pending before the Civil Judge (Senior Division), Sangrur. Accordingly as application was filed by answering respondent to withdraw the suit against the Petitioner.*

7) The Ld. Civil Judger (senior Division), Sangrur allowed the said application vide order dated 01.12.2015 allowing to withdrew the said recovery suit against the Petitioner. True Copy of the order dated 01.12.2015 is annexed herewith as ANNEXURE R-1.

8) That it is submitted that after procuring the order dated 01.12.2015 the answering respondent started to settle the amount of the Petitioner for which the no dues certificates was recovered from all the Districts w.r.t the information that no case/recovery/excess balance is pending against the Petitioner.

9) That after the above requisite compliance the case of the Petitioner was sent for final approval to the Managing Director being the competent authority for release of the retiral benefits of the Petitioner. The Managing Director passed the order dated 19.09.2016 (ANNEXURE P-4 with the writ petition).

10) That after the above order dated 19.09.2016 the order for approval for payment of Rs.8,48,434/- was granted by the Managing Director vide order dated 30.12.2016 (ANNEXURE P-5).

11) That the above amount was paid to the Petitioner on 13.02.2017 without any further delay.

12) That it is submitted that after following the proper procedure financial approval was given on 31.01.2017. As such petitioner was not entitled to any interest on the delayed payment as his retiral benefits for this delay was due to Departmental cases/recovery suits pending against the petitioner.”

7. From the perusal of the facts as stated hereinabove, it is clear that the petitioner retired from service on attaining the age of superannuation on 30.06.2011 as Inspector Grade-II, and he was awarded the punishment of stoppage of two increments with cumulative effect vide order dated 30.01.2007/23.02.2007, and recovery of Rs.59,51,836.80. On an appeal filed by the petitioner, the said recovery was withdrawn, however, the punishment of stoppage of two increments with cumulative effect was maintained by the Appellate Authority vide order dated 05.05.2015 (Annexure P-3). Thereafter, the petitioner has been released gratuity amount of Rs.5,67,424/- and leave encashment of Rs.2,81,010/- on 13.02.2017 and 14.02.2017, respectively.

8. The Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others*, 1997(3) SCT 468** has held that employee is entitled for the release of the pensionary benefits within a reasonable time after the retirement in case there is no impediment. The reasonable time fixed by the Full Bench of this Court in A.S. Randhawa's case (supra) is two months after the retirement. In case of the failure of the authority to release the pensionary benefits, employee has been held entitled for interest so as to compensate the employee for the delay. 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."*

9. Also, a Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana*, 2014(13) RCR (Civil) 355** has held that where an amount belonging to an employee has been retained and used by the department, employee will be entitled for interest. 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."*

10. Once the disciplinary proceedings were concluded vide order dated 05.05.2015, when the Appellate Authority had withdrawn the recovery by maintaining the punishment of stoppage of two increments with cumulative effect, the retirement benefits of the petitioner should have been released immediately thereafter, however, the same have been released in the month of February, 2017, for which the petitioner is held entitled for the grant of interest @ 6% per annum from 05.05.2015 till February, 2017.

11. Consequently, the present petition is partly allowed and the

respondent – Corporation is directed to grant interest @ 6% per annum on gratuity and leave encashment, which have been paid to the petitioner on 13.02.2017 and 14.02.2017, respectively.

12. Necessary calculations be made and released to the petitioner within a period of 03 months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

01.05.2024
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No