

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

216

CWP-26164-2015
Date of decision: 20.03.2024

Jarnail Singh

....Petitioner

Versus

Punjab Water Supply & Sewerage Board

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Dhiraj Chawla, Advocate for the petitioner.

Mr. Vijay Kumar Kaushal, Advocate for the respondent.

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is to issue a writ in the nature of mandamus, for directing the respondent to release the retiral benefits of the petitioner alongwith interest.

2. Learned counsel submits that the petitioner has, during the pendency of the present case, been released the retiral benefits *albeit* after a long delay, for which, he is entitled to grant of interest in view of the judgment passed by the Full Bench of this Court in **AS Randhawa vs. State of Punjab and others**, 1997(3) SCT 468.

3. Learned counsel for respondent-Board submits that the retiral benefits could not have been released earlier than these were, on account of a criminal case pending against him. On his acquittal on 28.02.2020, the same were granted without any delay. Even otherwise, there is no provision in the Rules to grant interest.

4. Heard learned counsel on either side.
5. Notably, the petitioner was involved in an FIR No.36 dated 06.06.2003, wherein he stood acquitted vide judgment dated 28.02.2020. As is discernible from the affidavit filed by the petitioner, dated 01.02.2024, that the retiral benefits have been released as under:

Sr. No.	Paid On	Particular	Payment made	Delay
1.	27.10.2016	CPF (Own Share)	Rs. 580945/-	1 year 8 months
2.	27.10.2016	EWF	Rs. 5500/-	1 year 8 months
3.	21.09.2022	Gratuity	Rs. 994500/-	7 years 7 months
4.	21.09.2022	Leave Encashment	Rs. 671800/-	7 years 7 months
5.	28.08.2023	CPF (Board Share)	Rs. 1265881/-	8 years 6 months

(emphasis supplied)

6. A beneficial reference can be made to the judgment of Hon’ble the Supreme Court in **S.K. Dua vs. State of Haryana**, (2008) 3 SCC 44, wherein, the retiral benefits of the appellant, who had rendered 37 years of service, which were withheld due to pending disciplinary proceedings, were released after four years of his exoneration, but sans the interest on the ground of there being no provision for granting it, as is the plea raised in the case at hand as well, it was observed that, “In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that

retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

7. In **Swinder Kumar vs. State of Punjab and others**, CWP-14093-2016, decided on 08.05.2019, by relying on the judgments in **A.S. Randhawa** (supra) and **J.S. Cheema vs. State of Haryana**, 2014(13) RCR (Civil) 355, this Court had allowed the interest on the delayed payment of retiral benefits to the petitioner therein, who retired on 31.08.2015, against whom a charge sheet was issued on 20.07.2015, however, the allegations having not been substantiated, it was dropped. It was held that the pendency of the charge-sheet could not be made a ground to deny the benefits of interest, as the same would cause prejudice to him, without any fault on his part.

8. Petinently, in pursuance to a direction of this Court to justify non-release of retiral dues to the petitioner, while releasing to other employees, involved in the same case, an affidavit was filed by the respondent, stating that challan had not been filed against them till their retirement, whereas the petitioner retired thereafter, is also not a plausible reason, as the initiation of the criminal proceedings is upon framing of charge. Be that as it may, he, having been acquitted of the charges in the FIR registered at the hands of the Vigilance Bureau, the withholding of retiral benefits cannot be found justified, thus, as has been held in **Vijay L. Mehrotra vs. State of U.P.**, (2001) 9 SCC 687, award of interest on their delayed release is necessitated.

9. The petitioner is therefore entitled to grant of interest, which is

not penal in nature but compensatory, having been deprived of an amount, which the respondents enriched themselves with.

10. In wake of the peculiar facts and circumstances of the case as also the law as explicated, the present writ petition is disposed of, with a direction to the respondent to pay the interest at the rate of 6% per annum from the date of retirement till the dues were released, within a period of two months from the date when a web-print of this judgment is received.

(AMAN CHAUDHARY)
JUDGE

20.03.2024
Hemant

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