2024:PHHC:074294

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206 CWP-21139-2021
Date of Decision : 24.05.2024

JOGINDER SINGH … PETITIONER

Versus

STATE OF PUNJAB AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Arvind K. Sharma, Advocate for
Mr. S.S.Rana, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. Sarthak Gupta, Advocate
for respondent No.5.

****

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to the respondents to release amount of GPF and Group Insurance Scheme (for short 'GIS') with interest.

2. Mr. Arvind K. Sharma, Advocate submits that grievance of the petitioner would be redressed if respondents are directed to pay interest on delayed payment of his retiral dues. He concedes that there is no delay with respect to payment of leave encashment and GIS, however, there is delay in payment of GPF.

To buttress his contention, learned counsel for the petitioner relies upon judgment of Supreme Court in ***S.K. Dua v. State of Haryana, 2008 (3) SCC 44*** and a Full Bench judgment of this Court in ***A.J. Randhawa, Supg. Engineer (Retd.) v. State of Punjab, 1997 SCC OnLine P&H 705***.

3. Mr. Aman Dhir, DAG, Punjab submits there is no inordinate delay on the part of respondents. The petitioner retired from BBMB on 31.03.2018 and he submitted application to BBMB seeking release of GPF on 18.04.2019 and thereafter the matter was referred to State Government on 30.04.2019. The GPF amounting to Rs.19,37,688/- was released on 25.02.2022.

4. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

5. From the perusal of record, it comes out that petitioner retired on 31.03.2018 on attaining the age of superannuation. The petitioner was released retiral dues except GPF within time and he is not claiming interest on these elements, however, the payment of GPF was made beyond two months' period as laid down by Full Bench of this Court in ***A.J. Randhawa (supra)***

6. The Apex Court in ***S. K Dua (supra)*** has clearly held that an employee can claim interest in terms of Part III of Constitution of India. The relevant extracts of the said judgment read as:

"13. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on 30-6-1998. It is also undisputed that at the time of retirement from service, the appellant had completed more than three decades in government service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. True it is that certain charge-sheets/show-cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr Quraishi against whom serious allegations of malpractices and misconduct had been levelled by the appellant which resulted in removal of Mr Quraishi from the post of Secretary, Irrigation. The said Mr Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years.

14. 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. A Full Bench of this Court in ***A.J. Randhawa (supra)*** has adverted with an identical issue and held that an employee normally would be paid retiral benefits within two months and in case of payment beyond two months, he shall be entitled to interest. The relevant extracts of the said judgment read as:

> *"9. 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 case [1985 (2) L.L.N. 18] (vide 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. Again, as to what should be the rate of interest, it should, in our view, be generally 12 per*

> *cent unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18 per cent."*

8. In the wake of aforesaid judgments, it is quite evident that an employee is entitled to interest if payment of retiral dues is made beyond two months from the date of retirement. In the case in hand, the petitioner on account of contributory default is not entitled to interest on GPF for the period from 01.08.2018 to 29.04.2019, however, he is entitled to interest on delayed payment of GPF from 30.04.2019 to 24.02.2022. The respondent-State is hereby directed to pay interest @ 6% on GPF amount from 30.04.2019 to 24.02.2022. The needful shall be done within three months from today

9. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

24.05.2024
anju

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*