275 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16749-2023 (O&M)
Date of Decision : 03-10-2024

SIMRANJEET SINGH ....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. A.K Walia, Advocate
for the petitioner.

Mr. Swapan Shorey, DAG Punjab.

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HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance being raised by the petitioner is that he was allowed the benefit of voluntary retirement by the respondents on 29.11.2022 w.e.f 30.11.2022 (A/N), copy of which has been appended as Annexure P-4 and thereafter, the petitioner was released all his pensionary benefits but the respondents decided to initiate the departmental proceedings against him on 25.07.2023 and on the basis of the said Departmental proceedings, the pensionary benefits have been stopped. The prayer of the petitioner is that on 29.11.2022, when the petitioner was allowed the voluntary retirement, there was no disciplinary proceedings pending against him hence, even if the disciplinary proceedings have been initiated against the petitioner after retirement, the same cannot be a ground for withholding the pensionary benefits. The reliance is being placed upon the judgment of this Court in CWP No.21049 of 2017 titled ***"Anoop Singh Vs. State of Haryana and ors.",*** decided on 14.10.2019.

Upon notice of motion, the respondents have filed their reply wherein they have stated that the petitioner gave a voluntary retirement notice in March, 2022 and had stopped coming to the office which absence was reported to the higher authorities and in the meantime, his request for voluntary retirement was accepted in November, 2022 and after the acceptance of the voluntary retirement, disciplinary proceedings have been initiated on the ground of absence from service vide chargesheet dated 25.07.2023 hence, the certain pensionary benefits of the petitioner have been withheld though, he has been paid provisional pension.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is only on the date when an employee retires either on attaining the age of superannuation or even voluntary retirement and, the disciplinary proceedings are pending against him/her at that time, the action can be taken by the Department to withhold certain pensionary benefits. In case, any proceedings are initiated after the retirement, the same cannot be made a ground to withhold the pensionary benefits as, right to claim the pensionary benefits already stands accrued and crystallised in favour of the employee much prior to the initiation of the disciplinary proceedings.

Further, the said question of law has already been settled by this Court in ***Anoop Singh's case (supra).*** It has already been held after discussing the law on the issue that in case, any chargesheet is issued to an employee after the retirement, the same cannot be made a ground to withhold the pensionary benefits.

Learned counsel for the respondents has not been able to rebut the said proposition of law.

Keeping in view the fact that in the present case on the date when the claim of the petitioner was accepted in November, 2022 for voluntary retirement, there was no disciplinary proceedings and the same were only started in July, 2023, the respondents cannot withhold the pensionary benefits and the petitioner is entitled to release all the pensionary benefits.

Further, as the respondents have already issued a chargesheet against the petitioern, the same will be governed by the Rule 2.2 of the Punjab Civil Services Rules Volume-II and in case, the petitioner is found guilty of any charge, the respondents are competent to take appropriate action under Rule 2.2 of the Punjab Civil Services Rules, Volume-II.

Keeping in view of above, with regard to the release of the pensionary benefits, the claim of the petitioner is allowed. The respondents are directed to release all the pensionary benefits admissible to the petitioner within a period of four weeks from the receipt of copy of this order.

At this stage, learned counsel for the petitioner claims that as his pensionary benefits have been withheld, he is entitled for interest keeping in view the judgment of Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** wherein it has been held that where there is an inordinate delay and the delay is not justifiable, employee will be entitled for interest.

Learned counsel for the respondents submits that as the claim of the petitioner is being decided today, he is not entitled for any interest.

As noticed hereinbefore, keeping in view the rules governing the service, the respondents did not have any jurisdiction to withhold the service of the petitioner. Pensionary benefits were withheld contrary to the rules. Once, the action of the respondents of withholding the pensionary benefits is not supported by the rules, the petitioner becomes entitled to be compensated for the illegal action on the part of the respondents to withhold his pensionary benefits.

Even as per the judgment of Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** in case the pensionary benefits of an employee are not released within a period of 2 months of his retirement in case there is no impediment, the employee is entitled to be compensated by the grant of interest. The relevant paragragh of the 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 retirer 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 front 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, there was no impediment for the release of the pensionary benefits at the time when the claim of the petitioner for voluntary retirement was accepted in November, 2022. Hence, the petitioner is entitled for the grant of interest on pensionary benefits.

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 **J.S. Cheema's case (supra)** 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."

Keeping in view of above on the pensionary benefits of the petitioner is also held entitled for the benefit of interest @ 6% per annum from the date the pensionary benefits becomes due till the actual release of the same.

Let the interest under this order be calculated and released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Pending application, if any, also stands disposed of.

03-10-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO