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

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CWP-24779-2018 (O&M)
Date of decision: 30.04.2024

Sukhraj Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present : Mr. Gopal Singh Nahel, Advocate for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

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AMAN CHAUDHARY. J (Oral)

1. The prayer in the present petition is for quashing of the impugned order dated 11.06.2018, Annexure P-6, whereby the claim of the petitioner has been rejected regarding one increment, with further directions to grant interest on the delayed payment.

2. Learned counsel would contend that the petitioner was promoted to the post of Chief Pharmacist, vide order dated 24.06.2015 and allotted station on 06.07.2015, where he joined on 23.07.2015 and stood retired on 31.05.2016, after attaining the age of superannuation. It is his categoric case that the option of increment w.e.f. 01.01.2016, the clause for exercise of which though, was not contained in his promotion order as per the fundamental rules, was given by him on 23.07.2015 and has, thus, been clarified by the Deputy Director as well. The said rule reads thus:

> "(3) 'Option' clause in promotion order
>
> In order to enable the officials to exercise the option within the time limit prescribed, the option clause for pay fixation on

> promotion with effect from date of promotion/DNI shall invariably be incorporated in the promotion/appointment order so that there are no cases of delay in exercising the options due to administrative lapse.
> [OM No. 13/02/2017-Estt. (Pay-l) dated 27.07.2017]"

3. Learned counsel however further submits that the petitioner was not granted the benefit by wrongly taking the date on which Senior Medical Officer Incharge Civil Hospital had forwarded the option. Reliance is placed on the judgments in **O.P. Garg vs. State of Punjab and others**, 2013 (4) SCT 837 and **Rajinder Singh Pandher vs. State of Punjab and others**, CWP-16901-2018, decided on 01.12.2023.

4. On the other hand, learned State counsel submits that the petitioner was rightly denied the claim, he having not submitted the necessary option within the prescribed period and as such, was given the increment on promotion w.e.f. from 23.07.2015.

5. Heard learned counsel on either side.

6. Notably, without mentioning the date of submission of the option, the relief to the petitioner has been denied merely on the premise of the date when it was forwarded by the Senior Medical Officer, which in itself is not sufficient to conclude it having not been submitted within time, which is not only his categoric case but came to be even fortified by the Deputy Director on 28.07.2016, Annexure P-3, in response to a clarification sought on 29.06.2016 regarding grant of annual increment to him, that on basis of the option given under Rule 11(ii) of Punjab Civil Services, Revised Pay-Rules 2009, it was justified to grant the same to the petitioner (as Pharmacist) from 01.01.2016 and the increment of the promotion (as Chief Pharmacist) also from the said date. There remained thus, no ambiguity of any kind.

7. Going a step further and taking the worst-case scenario, the fundamental rules provided that a clause of giving an option for pay fixation on

promotion must invariably be incorporated in the said order, which concededly, was not mentioned. Further in **O.P. Garg** (supra), the Division Bench, had held that when the circular is issued with regard to exercise of option for refixation of salary, it had to be communicated to the employee soon after his promotion, a fact which the respondents could not substantiate in case of the petitioner herein.

8. In the wake of the aforesaid, it can safely be concluded that the petitioner even if had not given an option, as neither was it required of him in the promotion order nor any document confirming that it had been got noted from him, his request needed to be acceded to.

9. The second prayer of the petitioner for grant of interest on delayed release of retiral benefits, stems out of the fact of the gratuity amount having been released after one year of his retirement, ie, on 19.05.2017 and leave encashment and GPF on 05.11.2016 and 05.12.2016 respectively and the excuse taken by the State in this regard was of the late submission of the necessary papers. In somewhat similar facts, this Court in **Rajinder Singh Pandher** (supra) directed payment of interest on delayed release of retiral dues, by observing that, "…In fact as per rules, the pension papers of the government employee who is due to retire should be prepared and processed six months before he is due to retire. The concerned Head of the Department or Head of Office is required to see that the pension papers are duly prepared by the concerned employee who is due to retire six months thereto. If the person has remained on deputation at any other place or he remained posted at different places, the LPC from the various places should also be obtained while he is in service itself. NOCs from the various departments should also be processed as soon as possible so that a person who is due to retire gets his pension immediately after he retires because once he retires his monthly salary is not

paid in his bank and virtually he is without any money. In order to avoid such situation, the State government has already issued circulars in this regard but they are not being followed. Resultantly, petitions are being filed before this Court time and again for release of pension." Further that, "In the present case, a specious plea has been taken by the respondents that the pension papers were submitted after ten months. The respondents have also put on the petitioner responsibility of getting the NOC from the places where he remained posted on deputation. All these aspects need to be examined at the level of the respondents themselves who are responsible to see that the person who is retiring gets all his retiral dues smoothly. In fact no one should forget that he has to get retired one day and, therefore, at the time of retirement, the pension should be made as soon as possible."

10. Hon'ble the Supreme Court in **Vijay L. Mehrotra vs. State of UP**, 2001 (9) SCC 687, held that in case there is no justification or reason for delayed payment of retiral benefits, interest would be liable to be paid.

11. In **A.S. Randhawa vs. State of Punjab and others,** 1997(3) SCT 468, it was held that an employee would be entitled to be compensated by granting interest by the State on account of delayed disbursal of retiral benefits.

12. This Court in **J.S. Cheema vs. State of Haryana**, 2014(13) RCR (Civil) 355, observed that, the interest has to be given to an employee where an amount belonging to him, was retained and utilised by the respondents, has been released on a later date.

13. On a conspectus analysis of the facts and circumstances of the case, in light of the judgments referred to herein above, the impugned order dated 11.06.2018 is hereby set aside, directing the respondents to grant both, the annual increment and the one on promotion from 01.01.2016. Insofar as the delay in release of retiral dues, the same shall carry an interest at the rate of 6%

per annum from the date of retirement till the payment. Needful be done within a period of two months from the date when a web-print of this judgment is received.

(AMAN CHAUDHARY)
JUDGE

30.04.2024
Hemant

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