

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CWP-20199-2020
Date of Decision : 08.02.2024

Laxman SinghPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Peeush Gagneja, Advocate for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. Ishan Khetarpal, Advocate for
Mr. Mohit Sadana, Advocate for respondent No.5.

NAMIT KUMAR, J. (ORAL)

1. The instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India seeking a writ of mandamus directing the respondents to release the remaining service-cum-retiral benefits of the petitioner such as pension, gratuity, leave encashment, DA Installments and other benefits, along with interest on the delayed payments.
2. It is the case of the petitioner that he retired as Leading Firemen from Municipal Council, Malout on 31.07.2019, on attaining the age of superannuation and when the retiral benefits were not released to him, he submitted the legal notice dated 22.09.2020 (Annexure P-4) to the respondents and since no response was received by the petitioner on the said legal notice, therefore, he has approached

this Court by filing the instant writ petition for releasing his retiral benefits.

3. On issuance of notice of motion, separate replies have been filed by respondents No.1 & 2 and respondent No.5. In the reply filed by respondent No.5, it has been stated that all the retirement benefits of the petitioner have been released. The tabulated chart giving the dates of release of retiral benefits is as under :-

Sr. No.	Dues	Amount payable	Cheque No.	Date	Payment Made	Pending amount
1.	Gratuity (As per Gratuity Act, 1972 $56,139 \times 34 \times 15/26 = 11,01,188$. But maximum up to Rs.10,00,000	10,00,000	199326	31.07.2019	5,00,000	-
			580740	30.10.2019	2,00,000	
			267650	29.01.2020	2,00,000	
			656372	14.05.2020	1,00,000	
2.	Leave encashment $56,139 \times 300/30 = 5,61,390$	56,1390	656372	14.05.2020	1,00,000	-
			268136	27.08.2020	2,00,000	
			243813	17.03.2021	2,61,390	
3.	PF/remaining amount after PF advance	12,1941	243813	17.03.2021	1,21,941	-
4.	Amount pending to be deposited in PF account as per payscale	28,924	243813	17.03.2021	28,924	-
5.	Amount pending to be deposited in PF account as per increase in D.A.	63,079	243813	17.03.2021	63,079	-
6.	Amount pending in PF account	12,733	580737	23.09.2019	12,733	-
	Total	17,88,067			17,88,067	

4. Learned counsel for the petitioner submits that although during the pendency of the present petition, all the retrial benefits have been released by the respondents, however, the same have been released

after a considerable delay.

5. On the other hand, learned counsel for respondent No.5 submits that there is no mala fide intention to withhold the retiral benefits of the petitioner and it is only due to the financial crisis the delay has occurred in releasing the retiral benefits to the petitioner.

6. I have heard learned counsel for the parties and gone through the relevant documents.

7. It is a well settled law that the retiral benefits of the employee is his property and the same cannot be withheld without any justifiable reasons.

8. Since nothing adverse was pending against the petitioner, he was entitled for retiral benefits within a reasonable time from the date of retirement. However, there is a considerable delay in releasing the retiral benefits of the petitioner, therefore, he is entitled for interest on the delayed retiral benefits.

9. A Full Bench of this Court in *A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468* has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

“8. 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. ”

10. 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 the said judgment is as under: -

“5. 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. ”

11. In view of the above factual position, this Court is of the considered view that the petitioner is entitled for grant of interest @ 6% per annum on the delayed payment of retiral dues w.e.f. 01.11.2019 till the date of actual payment(s), duly detailed in tabulated chart, given on page 2, which shall be paid by the respondents, within a period of 03 months from the date of receipt of certified copy of this order.

12. The present petition is disposed of in the above terms.

08.02.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No