2024:PHHC:047937

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21427 of 2021 (O&M)
Date of decision: 09.04.2024

Sawinder Singh

....Petitioner

Versus

Punjab State Power Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Abhishek Khullar, Advocate
for the petitioner.

Mr. Sehajbir Singh, Advocate
with Ms. Karishma Sharma, Advocate
for the respondents.

NAMIT KUMAR J. (Oral)

1. Prayer in this writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the order dated 10.09.2021 (Annexure P-10) vide which the respondents have denied interest on the delayed payment of retiral dues to the petitioner. Further a writ of mandamus has been sought for directing the respondents to release 12% interest on account of delayed payment of retiral dues to the petitioner.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner stood retired as Assistant Accounts Officer on attaining the age of superannuation on 30.04.2017, however, after his retirement, he was served with a show cause notice dated 18.08.2017 (Annexure P-1), which was received by the petitioner on

03.10.2017 but later on, the said show cause notice was disposed of by the respondents after issuing a warning to the petitioner vide order dated 12.04.2019. Thereafter, the petitioner filed representation dated 18.04.2021 (Annexure P-7) seeking interest on the delayed payment of retiral dues, however, the same was rejected by the respondents – authorities vide impugned order dated 10.09.2021 (Annexure P-10) and thus, the petitioner has filed the instant petition for release of remaining retiral benefits.

3. Learned counsel for the petitioner submits that though some of the pensionary benefits were released to the petitioner but all the pensionary benefits were liable to be released immediately upon the retirement of the petitioner and as the release of the pensionary benefits has been delayed, the petitioner is entitled for the grant of interest as no departmental proceedings were pending against the petitioner. He further submits that the show cause notice was issued to the petitioner much after his retirement, however, the said show cause notice was disposed of by giving a warning to the petitioner. He further submits that the action of the respondents in withholding the pensionary benefits of the petitioner is totally illegal and arbitrary.

4. Per contra, learned counsel for the respondents have opposed the submissions made by learned counsel for the petitioner on the ground that there is no intentional delay in releasing the pensionary benefits to the petitioner and the same has occurred only on account of the fact that the petitioner was issued show cause notice, which was culminated into passing of order of warning.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Since there was nothing adverse against the petitioner, at the time of his retirement and the show cause notice has already been disposed of by issuing a warning to the petitioner, which is of no consequence, and, therefore, the retiral dues were liable to be released within a reasonable time. Having not released the retiral dues to the petitioner in time, hence, the petitioner is held entitled for interest @ 6% per annum.

7. The Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others*, 1997(3) SCT 468** has held that employee is entitled for the release of the pensionary benefits within a reasonable time after the retirement in case there is no impediment. The reasonable time fixed by the Full Bench of this Court in A.S. Randhawa's case (supra) is two months after the retirement. In case of the failure of the authority to release the pensionary benefits, employee has been held entitled for interest so as to compensate the employee for the delay. The relevant paragraph of 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 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."*

8. Also, a Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana*, 2014(13) RCR (Civil) 355** has held that where an amount belonging to an employee has been retained and used by the department, employee will be entitled for interest. The relevant paragraph of the said judgment 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."*

9. Keeping in view the above facts and settled principles of law, the present petition is allowed and the order dated 10.09.2021 (Annexure P-10) is set-aside and petitioner is held entitled for interest @ 6% per annum from 01.08.2017 (after 03 months from date of retirement) till the date the actual payment(s), which shall be paid by respondent No.2, within a period of 03 months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

09.04.2024
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No