IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219+105

CWP-26029-2018 (O&M)
Date of decision : 01.04.2024

Davinder Kaur ….Petitioner

V/S

Punjab State Power Corporation Ltd. and another ….Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sahaj Mahajan, Advocate for
Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. Jagdeep Singh, Advocate for
Ms. Komal Sharma, Advocate for the respondents.

****

NAMIT KUMAR, J. (ORAL)

CM-16897-CWP-2022

Prayer in the instant application filed under Section 151 of CPC is for placing on record replication to the written statement filed by the respondents.

Allowed as prayed for and replication filed by the petitioner is taken on record.

CWP-26029-2018

1. Learned counsel appearing for the respondents has filed power of attorney in the Court which is taken on record.

2. The petitioner has filed the instant writ petition under Article 226 of the Constitution of India seeking a writ of certiorari for quashing the order dated 03.08.2018 (Annexure P-14), whereby a sum of Rs.6,75,658/- has been recovered from the retiral benefits of the

petitioner on the ground that benefits of 1st and 2nd ACP scales were wrongly granted to the petitioner and further prayed for payment of interest @ 18% per annum from the date of accrual till its actual realisation.

3. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner was appointed as J.B.T. Teacher in the scale of Rs.480-880/- vide order dated 09.09.1982 issued by respondent No.2 and she joined her services on 24.09.1982. The petitioner was promoted to the rank of B.Ed. Teacher in the scale of Rs.620-1200/- vide order dated 15.03.1989 and she actually joined to the said post on 15.09.1989. Vide order dated 19.08.2004, upon grant of 1st ACP scale, the petitioner was placed in the scale of Rs.6300-10700/- and the said order was made effective w.e.f. 15.09.1999. Thereafter, vide order dated 17.08.2007, upon grant of 2nd ACP scale, the petitioner was placed in the scale of Rs.7000-11750/-. On attaining the age of superannuation, the petitioner retired on 31.08.2017. When the retiral benefits were not released to the petitioner, she served a legal notice upon the respondents on 31.03.2018 but no action was taken on the same. Thereafter, she approached this Court by filing CWP No.12761 of 2018, which was disposed of by this Court vide order dated 21.05.2018, with a direction to the respondents to decide the legal notice, in accordance with law, within a period of two months and release the retiral benefits in next 45 days. The respondents were also directed to consider payment of interest over the outstanding amount. Pursuant to the order passed by this Court, the respondents passed various orders fixing the pay of the

petitioner at the time of her retirement and they finally passed speaking order dated 03.08.2018 mentioning that the 1st ACP and 2nd ACP scales were wrongly granted to the petitioner. The pay was accordingly re-fixed and the excess payment worked out as Rs.6,75,658/- was ordered to be adjusted from whole amount of leave encashment of Rs.4,47,040/- and from gratuity of Rs.2,28,618/-. Hence this petition.

4. Learned counsel for the petitioner submits that during the pendency of the present petition, the recovered amount of Rs.6,75,648/- has been refunded to the petitioner vide cheque No.750094 dated 12.07.2023. He submits that since the said amount was wrongly recovered from the retiral benefits of the petitioner, therefore, she is entitled for interest on the said amount in view of the law laid down by a Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468; J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355.***

5. On the other hand, learned counsel for the respondents submits that since the recovered amount has already been refunded to the petitioner, therefore, the present petition may be disposed of as having become infructuous.

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

7. Since, either before or after the retirement of the petitioner, no departmental/criminal proceedings were pending against her, therefore, her retiral benefits were required to be released within a reasonable time after her retirement and since the amount of

Rs.6,75,648/- was wrongly recovered from the petitioner which has been refunded to her after a considerable delay, therefore, the petitioner cannot be denied the benefit of interest on the same.

8. 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:-

> *"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."*

9. 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: -

> *"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."

10. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to the respondent-Corporation to pay interest @ 6% per annum to the petitioner on the recovered amount, from the date of recovery till 11.07.2023, within a period of 02 months from the date of receipt of certified copy of this order.

01.04.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No