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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21474-2021
Date of decision: 07.05.2024

Kewal Krishan

...Petitioner

Versus

District and Sessions Judge, Sangrur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Ms. Divya Sharma, Advocate for respondent No.1.

Ms. Neha Sonawane, DAG, Punjab, for respondent No.2.

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VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari directing the respondents to release the balance retiral dues i.e. Rs.1,00,000/- along with interest. Further prayer has been made for payment of interest of delayed payment of retiral dues at the rate of 12% per annum.

2. On 03.05.2024, this Court had passed the following order:-

"Learned counsel for respondent No.1 has submitted that the present writ petition has been rendered infructuous in view of the fact that the claim of the petitioner for release of Rs.1,00,000/- of gratuity has been satisfied and the amount has been released on 01.06.2022.

There is a written request for an adjournment on behalf of learned counsel for the petitioner.

Adjourned to 07.05.2024.

To be taken up at 11:45 am."

3. Learned counsel for the petitioner has fairly submitted that as far as the substantial relief of releasing the balance retiral dues is concerned, the same has been granted and has prayed that only the interest on retiral dues which is payable to the petitioner on account of delayed payment is left. It is submitted that the petitioner had retired on 30.11.2015 after having been granted one year of extension. It is further submitted that although, there was some delay in the release of each of the retiral benefits but the petitioner would only press for interest to be paid on the amount of Rs.9 lacs on account of Death-cum-Retirement Gratuity, which was paid on 05.11.2016 after a delay of more than 11 months from the date of retirement. It is further submitted that the second head on which the interest is being sought by the petitioner is on the amount of Rs.4,41,592/- on account of commutation of pension which was released to the petitioner on 20.11.2018.

4. Learned counsel for respondent No.1 as well as State of Punjab have submitted that in the present case, an inquiry was pending against the petitioner and the said inquiry was concluded on 31.03.2016 and an amount of Rs.5000/- as fine was to be paid by the petitioner, which was deposited by him on 02.04.2016 and thus, no interest upto 02.04.2016 can be claimed by the petitioner as per Rule 2.2(c) Volume-II of Punjab Civil Services Rules.

5. Learned counsel for respondent No.1 has further submitted that the interest if any, could not be charged from respondent No.1 as they had forwarded the case of the petitioner on 06.05.2016 after getting all the requisite No Due Certificates and thus, delay, if any, is on the part of the State.

6. Learned State Counsel has submitted that in case the petitioner submits a representation on the aspect of payment of interest then the same would be considered by respondent No.2 in accordance with law, as expeditiously as possible.

7. This Court has heard learned counsel for the parties with respect to the prayer of the petitioner for payment of interest on retiral benefits and has perused the paper book.

8. Before considering the prayer of the petitioner, it would be relevant to take note of the judgment of the Coordinate Bench of this Court in ***CWP no.15867 of 2001*** titled as ***"J.S. Cheema vs. State of Haryana and others", decided on 20.11.2013***, relevant portion of which is reproduced hereinbelow:-

> *"1 to 3. xxx xxx*
>
> ***4. In the written statement, the plea taken is that the petitioner submitted his pension papers very late and that is why some delay was caused in the disbursal of his retiral benefits.***
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> ***5. In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.

6. Learned Assistant Advocate General has further argued that some reasonable time has to be granted for processing the papers and the requirement of law is not that strict that interest must be ordered from the first day after retirement. I find some weight in this assertion.

7. Learned counsel for the petitioner has argued that as per the Government instructions the period of three months has to be taken as maximum period within which the retiral benefits has to be released. After deducting those three months there is still a delay as mentioned above.

8. In the circumstances, I hold the petitioner entitled to interest @ 8% p.a. on the delayed payment of retiral benefits. The interest will become due w.e.f. 01.05.2000. Let the interest on the above components i.e. gratuity, arrears of pension and leave encashment be computed @ 8% p.a. from 01.05.2000 till the date of payment and the same be released to the petitioner within a period of two months from the date of receipt of a certified copy of this order, failing which, the petitioner would be entitled to claim the same with interest @ 9% p.a.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of."

A perusal of the above judgment would show that in the said case, the plea taken in the written statement was to the effect that the papers submitted by the petitioner therein were after considerable delay but the said plea was rejected by the Coordinate Bench of this Court by observing that the jurisprudential basis for grant of interest to a person was that the said person's money had been used by somebody else and thus, even if there was no negligence on the part of the State, it could not be denied that money which rightly belonged to the employee, was in the custody of the State and was being used by it and thus, interest at the rate of 8% per annum was granted to the petitioner therein on the delayed payment of retiral benefits.

9. In the present case, it is not in dispute that the petitioner had retired from service on 30.11.2015 after having been granted one year extension. It is the case of the respondents that an inquiry was pending against the petitioner and the same was concluded on 31.03.2016 and fine of Rs.5000/- was imposed upon the petitioner and the said fine was deposited on 02.04.2016. The said aspect has not been disputed on behalf of the petitioner. Thus on 02.04.2016 or immediately thereafter, the petitioner was entitled to receive the retiral benefits i.e. Death-cum-Retirement Gratuity as well as the amount payable on account of commutation of pension. Admittedly, an amount of Rs.9 lacs on account of Death-cum-Retirement Gratuity was released to the petitioner on 05.11.2016 and an amount of Rs.4,41,592/- was released to the petitioner on account of commutation of pension on 20.11.2018. Thus, there was a delay in the payment of the said amount and for the said delay, the petitioner is entitled to the interest at the rate of 8% per annum.

10. A perusal of the written statement filed on behalf of respondent No.1 (page 88) would show that it is the specific case of respondent No.1 that they had forwarded the pension case of the petitioner to respondent No.2 on 06.05.2016 after obtaining No Dues Certificates from all the quarters and thus, there is no delay on the part of respondent No.1. The delay is on the part of the State and at any rate, the amount was to be paid by the State and was retained by them and thus, as per the law laid down in the abovesaid judgment, it is the State which would have to make the payment of amount on account of interest.

11. Keeping in view the abovesaid facts and circumstances, the prayer of the petitioner with respect to interest is partly allowed and State of Punjab is directed to pay interest at the rate of 8% per annum from 10.05.2016 to 05.11.2016 on Rs.9 lacs and further an amount of interest @ 8% from 10.05.2016 to 20.11.2018 on the amount of Rs.4,41,592/- and the said amount be paid to the petitioner within a period of two months from the date of receipt of certified copy of the present order failing which the petitioner would be entitled to interest @ 9% per annum.

12. In view of what has been observed above, the present Civil Writ Petition is disposed of.

13. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

07.05.2024 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**