



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

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CWP-26932-2018

Date of decision : 01.08.2024

Krishan Kumar Passi

.....Petitioner

V/S

Punjab State Civil Supplies Corporation Ltd. and another ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Anupam Bhardwaj, Advocate for the petitioner.

Mr. Mehardeep Singh, Advocate for the respondents.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the order dated 27.04.2018 (Annexure P-6), whereby representation dated 14.07.2018 made by the petitioner has been disposed of by withholding the recovery of Rs.2,52,485.58/-. Further seeking a writ of mandamus, directing the respondents to release the full amount of retiral benefits of the petitioner along with interest @ 12% per annum from the date the same have become due till the actual date of payment.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner had joined the respondent-Corporation as Inspector on 01.01.1975 and with the passage of time, he rose to the post of District Manager and retired as such on attaining the age of superannuation on 31.05.2007 from PUNSUP, Kapurthala. As per the service conditions of the petitioner, he was not entitled to any pension

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and was only to get the retiral dues in the form of gratuity and leave encashment. However, he was shocked to see his retirement order dated 24.05.2007, wherein it has been stated that his retiral dues are withheld on account of pendency of departmental enquiry/court cases etc. against him. He made various representations to the respondents for releasing his retiral benefits but no action was taken on the same. Thereafter, the respondent-Corporation has filed two recovery suits bearing No.CS/277/2009 and CS/1436/2013 against Inspector Des Raj and Malkiat Singh, respectively, which were continued for a long time and in the year 2016, the defendants-Des Raj and Malkiat Singh filed applications before the concerned Court requesting that as the Deputy District Manager (present petitioner) is also responsible for the said loss so caused, therefore, he may also be arrayed as a defendant in the civil suits. In its reply to said applications, the respondent-Corporation totally refuted the contentions made therein and have taken a stand that it was defendants-Des Raj and Malkiat Singh, who were wholly responsible for the loss caused to the Corporation and the petitioner was not required to be arrayed as a party in the said civil suits. However, learned Trial Court, without considering the contentions made by the respondent-Corporation, allowed the applications vide order dated 03.02.2016 and 06.02.2016 and arrayed the petitioner as defendant No.3 in the civil suits. When the petitioner was summoned by the Civil Court, he inspected the Court files and came to know about the stand taken by the respondent-Corporation which clearly shows that the respondent-Corporation does not want to proceed against the petitioner in any

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manner viz. Departmental proceedings or through filing Court case. After collecting all the relevant documents, the petitioner submitted a detailed representation dated 14.07.2017 to the respondent-Corporation for releasing his retiral benefits but no action was taken on the same. Thereafter, for redressal of his grievances, the petitioner approached this Court by filing CWP No.26174 of 2017 which was disposed of by this Court vide order dated 16.11.2017 by directing the respondents to look into the grievance unfolded by the petitioner in his representation dated 14.07.2017 and to take a conscious decision, by passing a speaking order considering all the facts narrated in the aforesaid representation, within a period of three months from the date of receipt of the certified copy of the order and in case, competent authorities arrives at the conclusion that petitioner is entitled to the relief(s) claimed, same be released to him within a period of next 45 days. Pursuant to the order dated 16.11.2017 passed by this Court, the respondent-Corporation has passed the impugned order dated 27.04.2018, thereby releasing part payment of retiral dues to the petitioner by withholding the so called recovery of Rs.2,52,485.58/- till the decision of Court cases. Hence, this petition.

3. Learned counsel for the petitioner submits that the petitioner has retired on 31.05.2007 and the Corporation has unnecessarily withheld the retiral dues of the petitioner as in its reply filed before the trial Court the Corporation stated that it was defendants-Des Raj and Malkiat Singh only, who were wholly responsible for the loss caused to the Corporation and the petitioner was not required to be

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arrayed as a party in the civil suits. Although, all the retiral dues have been released to the petitioner i.e. Rs.3,48,944/- on 27.06.2018 and Rs.2,51,430/- on 18.04.2024, however, the same have been released after a lapse of more than 17 years. Since there is a considerable delay in releasing the retiral dues of the petitioner, therefore, the petitioner is entitled for interest on the same.

4. Per contra, learned counsel for the respondents-Corporation, while referring to the contents of the reply filed on behalf of Corporation, submits that the delay occurred in releasing the retiral dues of the petitioner is entirely procedural and not intentional as at the time of retirement of the petitioner, various charge-sheets were pending against him and thereafter, recovery suits were also filed by the Corporation in which the petitioner was also made a party. However, he conceded the fact that all the charge-sheets were finalized lateron and no punishment was awarded to the petitioner and the recovery suits filed by the respondents-Corporation were also dismissed by the learned Trial Court vide judgments and decrees dated 21.02.2018 and 22.02.2018.

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

6. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 31.05.2007. All the charge-sheets pending against him were finalized lateron between the years 2009 to 2017 and recovery suits filed by the respondents-Corporation were also dismissed by learned trial Court vide judgment and decrees dated 21.02.2018 and 22.02.2018. Since there is a considerable delay in



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releasing the payment of retiral dues to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

7. 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.”

8. 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.”

9. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to the respondents to pay interest @ 6% per annum to the petitioner, on the delayed payment of gratuity and leave encashment, w.e.f. 01.09.2007 (i.e. after three months of his retirement) till the actual date of payment, within a period of three months from the date of receipt of certified copy of this order.

01.08.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No