IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9405-2016

Reserved on 08.08.2024
Pronounced on 21.08.2024

Mohan Lal ....Petitioner

Versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Manoj Kumar, Advocate with
Ms. Mehak Sharma, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Ms. Farheen Bajwa, Advocate for
Mr. Harsh Aggarwal, Advocate for respondent No.3.

Mr. Sudhir Paruthi, Advocate for respondent No.4.

NAMIT KUMAR J.

1. The petitioner has approached this Court by way of filing the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ of mandamus, directing the respondents to release all the retiral benefits accrued to the petitioner on his retirement such as gratuity, commutation, remaining leave encashment, provident fund etc. along with interest @ 18% per annum till its realization.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner was appointed as Surveyor in Municipal Corporation, Amritsar in the year 1978. Thereafter, he was promoted to the post of Junior Engineer and further to the post of Assistant Town Planner in the year 2002 and retired as such on attaining the age of superannuation on 31.12.2010. During his service tenure, when the

petitioner was posted at Municipal Corporation, Ludhiana, a case FIR No.1 dated 20.01.2005 under Sections 420, 465, 467, 468, 471 and 120-B IPC and under Section 13(1)(D) read with Section 13(2)/88 of Prevention of Corruption Act, 1988 in Police Station Vigilance Bureau, Ludhiana was registered against him and due to pendency of said case, at the time of his retirement, he was released only partial leave encashment and provident fund upto 90% and the other retiral benefits were withheld by the Corporation. Therafter, vide judgment dated 24.07.2014 passed by learned Special Judge, Ludhiana, the petitioner was acquitted in the abovesaid case. After his acquittal, the petitioner submitted a letter dated 11.09.2014 to the respondents requesting them for releasing his retiral dues. Vide memo dated 22.01.2015, the petitioner received a copy of communication between State Government and Commissioner, Municipal Corporation, Jalandhar, wherein it was mentioned that immediate action be taken on the request of the petitioner for releasing of his retiral dues. The petitioner again submitted a letter dated 29.06.2015 seeking information with regard to releasing of his retiral dues and the same was responded by the Public Information Officer, M.T.P. Department, Municipal Corporation, Jalandhar through letter dated 24.07.2015, wherein it was informed that the required record has not been sent by the State Government to the Municipal Corporation, Jalandhar. When the retiral dues were not released to the petitioner, he served legal notice dated 13.01.2016 to the respondents through his counsel to release the retiral dues of the petitioner within a period of one month but to no avail. Hence, this petition.

3. Pursuant to order dated 28.03.2022 passed by this Court, an affidavit of Sh. Rajesh Khokhar, Assistant Commissioner, Municipal Corporation, Jalandhar, on behalf of respondent No.4, has been filed. In the said affidavit, it has been stated as under :-

> *"xx xx xx xx xx*
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> *2. That the petitioner after attaining the age of superannuation was retired on 31.12.2010 from the post of the Assistant Town Planner. That a criminal case bearing FIR No.1 dated 20.01.2005 under Section 467/468/471 read with Section 120-B IPC was lodged against the petitioner at Ludhiana. That the service book of the petitioner and related documents were sent to the Government (respondent No.2) as required by the Govt. vide letter dated 16.01.2013. The copy of the letter dated 16.01.2013 is already attached with earlier reply of the respondent No.4 as Annexure R-4/1.*
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> *3. That the petitioner was acquitted by the Special Judge Ludhiana vide order dated 24.07.2014. That the deponent requested the Govt. time and again to send the service record and No Objection Certificate relating to the petitioner so that retiral benefits could be released. Copies of the letters issued by the deponent (respondent no 4) are already on the record with the earlier reply as annexure R-4/2, R-4/3, R-4/4 and R-4/5. That the record of the petitioner was sent back to the respondent no. 4 vide letter dated 21.07.2016 but No Objection Certificate was not issued and in the absence of the No Objection Certificate the retiral benefits could not be paid.*
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> *4. That the No Objection Certificate from the Govt. was issued on 05.06.2018 and the increment regarding Assured Career Progress (ACP) was issued 25.11.2021. Thereafter, the retiral benefits was paid to the petitioner.*
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> *xx xx xx xx xx"*

4. Learned counsel for the petitioner submits that the petitioner retired from service on 31.12.2010 and despite the fact that he was acquitted in a case FIR No.1 dated 20.01.2005 vide judgment dated 24.07.2014, passed by learned Special Judge, Ludhiana, his retiral benefits have been released after a considerable delay. Therefore, the petitioner is entitled for interest on the same w.e.f. the date of his retirement i.e. 31.12.2010. In support of his contentions, learned counsel for the petitioner has placed reliance upon the judgments passed by this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468***. He further submits that the retiral dues have been released to the petitioner in the following manner :-

Sr. No.	**Head of Account**	**Total Payable amount (Rs.)**	**Amount Paid (Rs.)**	**Date of Payment**
1.	Provident Fund	4,27,710/-	1,60,000/-	27.10.2010
		-Do-	2,67,710	26.07.2011
2.	Leave Encashment	3,49,160/-	3,49,160/-	18.11.2012
3.	Gratuity (without ACP) after issuance of NOC dated 05.06.2018	6,64,747/-	6,64,747/-	09.07.2018
4.	Increment regarding ACP (4 years) issued on 25.11.2021 by Govt. and Arrears of ACP	1,98,506/-	1,78,606/- after deducting income tax of Rs.19,900/- and pension contribution of Rs.31,185/-	23.12.2021
5.	Revised Gratuity after ACP increment	1,20,361/-	1,20,361/-	10.01.2022
6.	Revised Leave Encashment after ACP increment	63,220/-	63,220/-	10.01.2022
7.	Start of Provisional Pension (100%)	16,930/-	16,930/-	01.05.2012 pension of April 2012 paid in May 2022
8.	Arrears of Pension for the	2,35,582/-	2,35,582/-	20.04.2012

	period of 01.01.2011 to 31.03.2012			
9.	Arrears of Pension for the period of 01.01.2011 to 31.03.2022 after ACP increment	5,39,339/-	4,59,339/- after deducting income tax of Rs.80,000/-	22.04.2022

5. Per contra, learned counsel(s) for contesting respondents No.3 and 4 submitted that at the time of retirement of the petitioner, some of his retiral benefits were withheld by the Corporation due to pendency of criminal case against the petitioner i.e. FIR No.1 dated 20.01.2005 and after his acquittal, vide judgment dated 24.07.2014, passed by learned Special Judge, Ludhiana, the Corporation started the process for releasing his retiral dues. They submit that the service book of the petitioner and related documents were sent to the Government (respondent No.2) as required by the Govt. vide letter dated 16.01.2013 and due to delay in receiving back the service record of the petitioner and No Objection Certificate from the Government, some delay has occurred in releasing the retiral dues of the petitioner which is entirely procedural and not intentional. They further submit that at the most, the petitioner is entitled for interest on the delayed payment of retiral dues only from the date of his acquittal i.e. 24.07.2014 and not from the date of his retirement i.e. 31.12.2010. In support of their contentions, learned counsel(s) for respondents No.3 and 4 have placed reliance upon the judgments passed by this Court in ***Ranjit Singh Vs. Financial Commissioner, Excise and Taxation, Department of Excise and Taxation and others : 2019(4) S.C.T. 528*** and ***State of Punjab and others Vs. Narinder Singh Kaleka : 2019(4) S.C.T. 288***.

6. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

7. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 31.12.2010 and due to pendency of criminal case i.e. FIR No.1 dated 20.01.2005 registered under Sections 420, 465, 467, 468, 471 and 120-B IPC and under Section 13(1)(D) read with Section 13(2)/88 of Prevention of Corruption Act, 1988 in Police Station Vigilance Bureau, Ludhiana against the petitioner at the time of his retirement, he was released only partial leave encashment and provident fund upto 90% and the other retiral benefits were withheld by the Corporation. Vide judgment dated 24.07.2014, passed by learned Special Judge, Ludhiana, the petitioner was acquitted in the abovesaid case. As per stand taken by the respondents, after the acquittal of the petitioner, the Corporation started the process for releasing his retiral dues, however, due to delay in receiving the service record of the petitioner and No Objection Certificate from the Government, some delay has occurred in releasing the retiral dues of the petitioner.

8. Despite the fact that the petitioner has been acquitted in the criminal case vide judgment dated 24.07.2014 passed by learned Special Judge, Ludhiana, his retiral dues have been released after a considerable delay. Therefore, the petitioner cannot be denied the benefit of interest on the same. 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. Now, the question arises as to whether the petitioner is entitled for interest on the delayed payment of retiral dues w.e.f. the date of his retirement i.e. 31.12.2010 or w.e.f. the date of his acquittal i.e.

24.07.2014. Since the petitioner retired from service on 31.12.2010, he was already facing trial in the criminal case, therefore, action of the respondents withholding some of the retiral benefits of the petitioner during the pendency of the criminal case, cannot be held to be unjustified and the petitioner cannot be held entitled to the interest on the delayed payment of retiral dues w.e.f. his date of retirement. Reference in this regard can be made to the judgments passed by this Court in ***Narinder Singh Kaleka's case (supra)*** and ***Ranjit Singh's case (supra)***, wherein also the interest has been granted from the date of acquittal and not from the date of retirement.

11. In view of the above factual position and settled principles of law, the present petition is partly allowed. Respondent No.4 – Municipal Corporation, Jalandhar is directed to pay interest @ 6% per annum on the delayed payment of retiral dues of the petitioner w.e.f. 24.07.2014 till the actual date of payment, within a period of three months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

21.08.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No