IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-21476-2020 (O&M)
Decided on : 08.05.2024

JAIVIR SINGH . . .Petitioner

Versus

STATE OF HARYANA AND OTHERS . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Ankur Goyat, Advocate for
Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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HARSIMRAN SINGH SETHI , J. (Oral)

1. The grievance being raised by the petitioner in the present petition is that though the petitioner has already retired from the service on 31.05.2020, but, the pensionary benefits of the petitioner were not released immediately within the period of 02 months of retirement, which action on the part of the respondents is causing prejudice to the petitioner.

2. Learned counsel for the petitioner submits that during the pendency of the present petition, the pensionary benefits have been released to the petitioner but as the same has been released after the delay of certain period, the petitioner is also entitled for the interest on the delayed payment of the pensionary benefits.

3. Learned counsel for the petitioner further submits that keeping in view the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,*** wherein, it has been held that in case, an employee has not been paid his/her retiral benefits within a period of two months from the date of his/her retirement, where there is no impediment in the release of the same, an employee will be entitled for the grant of interest on the said delayed payments hence, the

respondents are under obligation to grant the benefit of interest on the delayed release of the same, so that the petitioner does not suffer any prejudice.

4. Learned counsel for the respondents submits that though it is a conceded fact that the pensionary benefits were not paid to the petitioner within a period of two months of retirement but the same could not be released to the petitioner due to COVID 19 pendamic and lock-down and hence, the delay of releasing the pensionary benefits is not intentional but the same was due to certain reason which was beyond the control of the department, hence, the claim of the petitioner for the grant of interest on the delayed payment of pensionary benefits may kindly be declined.

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

6. Keeping in view the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, that an employee is entitled for the release of his/her pensionary benefits within a period of two months of his/her retirement in case there is no impediment, failing which, an employee will be entitled for the grant of benefit of interest on the said delayed release of payments, the delay in releasing the leave encashement is attributable to the respondents for which the petitioner becomes entitle for the grant of interest so as to compensate his prejudice. 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 retirer 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 front 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."*

7. Further, a Coordinate Bench of this Court in of ***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 respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of J.S. Cheema's case (supra) 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.”

8. Keeping in view the facts and circumstances noticed herein before, the case of the petitioner is squarely covered by the settled principle of law noticed herein-above for the grant of benefit of interest on the delayed release of pensionary benefits admissible to him. Hence, the petitioner is held entitled for the grant of interest @ 6% per annum on the delayed payment of the pensionary benefits from the date the amount became due till the actual payments have been be released to him.

9. Let the computation of interest be done by the respondents and amount so calculated shall be paid to the petitioner within a period of **eight weeks** from the date of receipt of copy of this order.

10. The present petition is allowed in above terms.

11. Pending civil miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

08.05.2024
Riya

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