2024:PHHC:044033

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-8082-2017
Date of decision : 02.04.2024

Balbir Singh ….Petitioner

V/S

The Patiala Central Co-operative Bank Ltd. and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. D.S. Adlakha, Advocate for the petitioner.

Mr. Jimmy Singla, Advocate for respondents No.1 & 2.

Mr. Ashwani Prashar, Advocate for respondents No.3 & 4.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of mandamus directing the respondents to release all the retiral benefits i.e. death-cum-retirement gratuity, leave encashment etc. along with interest @ 18% per annum on the delayed payment of retiral benefits.

2. Brief facts of the case, as have been pleaded in the present petition, are that on 19.11.1976, the petitioner was appointed as a Clerk-cum-Cashier and joined as such at Rajpura in the Patiala Central Co-operative Bank Limited, Patiala. He was promoted from time to time as a Senior Clerk and thereafter as Assistant Manager and retired as such on 31.01.2011, on attaining the age of superannuation, from the Branch at Khera Gajju, Tehsil Rajpura, District Patiala. When the retiral benefits of the petitioner were not released for about one year,

he served a legal notice dated 06.01.2012 to the respondents through his counsel. In reply to the said notice, the respondents denied the retiral benefits of the petitioner on the ground that 104 arbitration cases are pending against him and his retirement benefits/dues have been attached in favour of respondents No.3 and 4 by the Assistant Registrar, Co-operative Societies, Derabassi vide order dated 12.01.2011. The said order was passed without granting an opportunity of hearing to him. The petitioner again sent a representation dated 23.07.2012 to the respondents for releasing his retiral benefits but no action was taken on the same with the intimation that all arbitration cases have been decided and petitioner has been exonerated from the liability cast upon him for wrong advancement of loans. But to no avail. Thereafter, the petitioner again served a legal notice dated 05.11.2013 to the respondents for releasing his retiral benefits along with interest @ 18% per annum. In response to the said legal notice, respondents No.1 and 2 sent a reply dated 06.01.2014 denying the retiral benefits of the petitioner on the ground of attachment of the same by the Assistant Registrar, Co-operative Societies, Derabassi on the application of respondents No.3 and 4 and also said to approach respondents No.3 and 4. Thereafter, the petitioner approached this Court by filing CWP No.8940 of 2014 to get release his retiral benefits which was disposed of vide order dated 09.05.2014 with a direction to respondent No.4 to dispose of the representation dated 23.07.2012 expeditiously, in accordance with law, preferably within two months from the receipt of certified copy of the order, by passing a speaking order. When respondent No.4 did not decide the representation dated 23.07.2012 within a stipulated period, the petitioner had filed COCP No.2886 of 2014. In response thereto, wrong facts were advanced by way of reply stating therein that 43 appeals are pending so far. Whereas as per record, the same have already been decided vide order dated 27.11.2014 whereby the said appeals were remanded back to the Arbitrator for fresh decision who had also decided the same vide orders dated 09.02.2015 i.e. well before the date of filing reply in contempt petition. The said order has attained finality. Thereafter, respondents No.3 and 4 sent a letter/report to the Registrar, Cooperative Society, Derabassi, stating therein that they have no objection in releasing the retiral benefits/dues to the petitioner. Pursuant to the said letter, the Assistant Registrar, Cooperative Society, Derabassi, vide order dated 03.08.2016, withdrew the attachment order with a direction to release the retiral benefits of the petitioner which were attached in favour of the Bank under Section 65 of the Punjab Cooperative Societies Act, 1961. Thereafter, respondent No.4 decided the representation dated 23.07.2012 by passing a speaking order on 04.08.2016 and accordingly, the above-said contempt petition was dismissed as having been rendered infructuous vide order dated 30.01.2017. However, the retiral benefits of the petitioner were not released and he again served a legal notice dated 15.12.2016 to the respondents but to no avail. Hence this petition.

3. On issuance of notice of motion separate written statements have been filed by respondents No.1 & 2 and 3 & 4.

4. As per written statement filed on behalf of respondents No.3 and 4, during the pendency of the present petition, the retiral benefits of the petitioner have been released by respondents No.1 and 2. The relevant para of the said written statement reads as under :-

> *"xx xx xx xx xx*
>
> *6. That as per information received from the Patiala bank vide letter no.15147 dated 1.2.2019, it was informed by the Patiala bank that retiral benefits of the petitioner have been released. A copy of letter no.13971 dated 17.11.2017 addressed to the petitioner qua retiral benefits was also enclosed, as per which details of payments/adjustment are as under :-*
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> ***Retirement Dues of Sh. Balbir Singh Retd. AM Amount in Rs.***

Leave salary	*6,48,390/-*	*Paid on*	*13.11.2017*
Arrears (pay fixation 1.1.2006)	*2,34,750/-*	*Paid on*	*13.11.2017*
Gratuity	*10,00,000/-*	*Paid on*	*13.11.2017*
Staff security	*12,232.93/-*	*Paid on*	*14.11.2017*
	18,95,372.93/-		

> *xx xx xx xx xx*
>
> *xvii. In reply to para xvii, it is submitted that in reply to legal notice sent by the petitioner, it was explained to the petitioner that the letter no. 3217 dated 4.8.2016 was sent to the Patiala bank while referring to letter dated 3.8.2016 issued by Assistant Registrar Cooperative Societies, Derabassi and it was mentioned that retiral dues of the petitioner be released. Again vide letter no. 4744 dated 25.10.2016 it was informed to the Patiala bank that there was no decision against the petitioner. It was also mentioned that the petitioner was an employee of the*

Patiala bank for all intent and purposes and thus notice has been unnecessarily issued to the respondent bank. In this way there is no liability of the answering respondent and the dispute is between the petitioner and respondent nos. 1 and 2.

xx xx xx xx xx"

5. Earlier it was being disputed by respondents No.1 and 2 with regard to the release of retiral benefits as to whether the same were to be released by respondents No.1 and 2 or by respondents No.3 and 4 and in this regard, on 17.07.2019, the following order was passed :-

"Written statement has been filed on behalf of respondents No.3 and 4, today in the Court and the same is taken on record. A copy thereof has been supplied to opposite counsel.

Counsel for respondents No.3 and 4 states that all the benefits for which the petitioner was entitled have already been released by respondents No.1 and 2, as the petitioner was an employee of respondents No.1 and 2.

Counsel for respondents No.1 and 2 states that the branch where the petitioner was working was merged with respondents No.3 and 4 and therefore, the claim, if any, for the grant of interest will be against respondents No.3 and 4.

Counsel for respondents No.3 and 4 rebut the statement by arguing that in case the retiral benefits have been released by respondents No.1 and 2, the interest, if any, is also the liability of respondents No.1 and 2 only.

Counsel for respondents No.1 and 2 seeks time to have instructions as to whether the retiral benefits were released by respondents No.1 and 2 or by respondents No.3 *and 4, as being argued by counsel for respondents No.3 and 4.*

Adjourned to 01.10.2019."

6. Thereafter, on 01.10.2019, learned counsel for respondents No.1 and 2 had stated that the retiral benefits of the petitioner were released by respondents No.1 and 2 and not by respondents No.3 and 4. The order dated 01.10.2019 reads as under :-

"Learned counsel for respondents No.1 and 2 states that the retiral benefits of the petitioner were released by respondents No.1 and 2 and not by respondents No.3 and 4 as was being disputed on the last date of hearing.

As there is no representation on behalf of the petitioner, in the interest of justice, adjourned to 29.01.2020."

7. Learned counsel for the petitioner submits that although all the retiral benefits of the petitioner have been released to him during the pendency of the present petition, however, the same have been released after a considerable delay. Since the retiral benefits of the petitioner have been withheld without any justifiable reasons, therefore, he is entitled for interest on the delayed payment of retiral benefits 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*** and ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***.

8. The above-said contention made by learned counsel for the petitioner has been opposed by learned counsel for respondents No.1

and 2 by referring to the averments made in the written statement, which reads as under :-

> *"xx xx xx xx xx*
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> *6. That on 31.01.2011, the petitioner attained the age of superannuation and retired from the services of the Patiala Central Cooperative Bank Ltd. Branch Khera Gajju, Tehsil Rajpura, District Patiala. On 20.03.2012, the petitioner informed the answering respondents that he has been exonerated by the Arbitrator in the arbitration cases. The answering respondents wrote letters dated 15.06.2012, 27.07.2012 and 20.12.2012 alongwith photocopies of the 87 arbitration awards to the SAS Nagar Central Cooperative Bank Ltd., Mohali, herein impleaded as respondent nos. 3 and 4. True translation copies of the aforesaid letters have been annexed herewith as* ***Annexure R-1 (Colly.)*** *for the kind perusal of this Hon'ble Court. However, the answering respondents did not get any reply from the SAS Nagar Central Cooperative Bank Ltd., Mohali who had got the attachment order dated 12.01.2011*
>
> *7. That the attachment ordered vide order dated 12.01.2011 was withdrawn by the Assistant Registrar, Cooperative Society Dera Bassi vide its order dated 03.08.2016. Thereafter, no objection certificate was issued by the respondent no. 3 only on 09.01.2017.*
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> *8. That thereafter, the answering respondents immediately released the retiral benefits of the petitioner. It is pertinent to mention here that an amount of Rs.18,95,372.93 out of which Rs.10,00,000 on account of gratuity, an amount of Rs.2,34,750 was released on account of pay fixation arrears, an amount of Rs.6,48,390 on account of payment of Leave encashment and an*

> *amount of Rs.12,232.93 on account of staff security, was released on account of retiral benefits of the petitioner on dated 13.11.2017 as well as on dated 14.11.2017. Therefore, no other dues of the petitioner are pending toward the answering respondents."*

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

10. It is an admitted fact that in all 104 arbitration cases, no award has been passed against the petitioner and all those cases were decided in the year 2012, exonerating the petitioner with regard to any kind of liability for allegedly wrong advancements of loans, however, still the payment of retiral benefits of the petitioner were released on 13.11.2017 and 14.11.2017. Since the retiral benefits of the petitioner were withheld without any justifiable reasons, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues.

11. 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."

12. 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."

13. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to respondents No.1 and 2 to pay interest @ 6% per annum to the petitioner from 01.04.2011 (after expiry of two months from the date of his retirment)

till the actual date of payment i.e. 13.11.2017 and 14.11.2017, within a period of 02 months from the date of receipt of certified copy of this order.

02.04.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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