IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-21788-2022
Date of decision : 06.03.2024

Subhash Chander ....Petitioner

V/S

State of Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sanjeev Kumar Arora, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Sarthak Gupta, Advocate for respondents No.2 and 3.

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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 for quashing the impugned order/letter dated 03.11.2020 (Annexure P-6), whereby the claim of the petitioner for grant of interest on the delayed payment of pensionary benefits has been rejected and further prayed that a writ of mandamus be issued for directing the respondents to grant interest @ 9% per annum on the delayed payment of retiral benefits.

2. Short reply on behalf of respondents No.2 and 3 has been filed in the Court which is taken on record.

3. Brief facts of the case, as pleaded in the petition, are that the petitioner had joined the respondent-Board as Tracer. Subsequently the post of Tracer was re-designated as Junior Draftsman on 20.05.1980. Thereafter, the petitioner was promoted as Junior Engineer on

23.01.1987 and as Sub Divisional Engineer on 08.12.2011 and further as Executive Engineer on 30.01.2016 and retired as such on 30.04.2018, on attaining the age of superannuation. Since his retiral benefits were released after a considerable delay of 7-8 months, therefore, he submitted a representation dated 20.10.2020 to respondent No.2 to release the interest @ 9% per annum on the delayed payment of retiral dues which was rejected by the respondent-Board vide impugned order/letter dated 03.11.2020 (Annexure P-6). Hence this petition.

4. Learned counsel for the petitioner submits that since the retiral benefits of the petitioner were released after a considerable delay, therefore, he is entitled for interest on the delayed payment of retiral dues 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***. The details of payment of retiral dues is as under :-

Sr. No.	Description	Date of payment	Amount in Rs.	Period of delay
1.	CPF	21.12.2018	40,20,050/-	7 months and 21 days
2.	Gratuity	27.11.2018	10,00,000/-	6 months and 27 days
3.	Leave Encashment	29.11.2018	9,10,580/-	6 months and 29 days

5. On the other hand, learned counsel for respondents No.2 and 3 submits that the whole amount of retiral dues has been paid to the petitioner and nothing is remained to be paid. However, he conceded the fact that some delay has occurred in releasing the retiral dues to the petitioner, which is not intentional.

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

7. In the short reply filed on behalf of respondents No.2 and 3 it has been stated as under :-

> *"4. That as reflected in Annexure P-5,* ***prior to the retirement of the Petitioner on 30/04/2018****, a complaint against him by the Council of Diploma Engineers had been received by the Head Office of the answering Respondent Board on 25/03/2018. Thereafter, vide letter of the Head Office bearing No.5750 dated 05/04/2018, the Chief Engineer (East), Punjab Water Supply & Sewerage Board Patiala, was directed to enquire into the said complaint.*
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> *5. That the Chief Engineer (East), Punjab Water Supply & Sewerage Board Patiala, vide his letter No. 2106 dated 18/09/2018 submitted his report that he agreed with the findings of the Executive Engineer, Punjab Water Supply & Sewerage Division No. 2, Patiala, who had enquired into the matter, and accordingly, the Chief Engineer recommended to file the said complaint against the Petitioner.*
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> *6. That immediately thereafter, the consolidated no dues certificate was issued by the Head Office of the answering Respondent Board vide letter No. 17657 dated 26.09.2018.*
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> *7. That on the issuance of the said consolidated no dues certificate, the retiral dues of the Petitioner were released within three months thereafter. The actual dates of payment as reflected in the Interest Calculation Sheet (Annexure P-2) are hereby admitted.*
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> *8. That hence, the delay, if any, in the release of retiral dues of the Petitioner is entirely procedural and*

unintentional. The Petitioner is therefore not entitled for any interest whatsoever on the release of his retiral dues."

8. The only ground taken by the respondent in the short reply is that due to the fact that one complaint was received against the petitioner, which was ultimately filed, the retiral benefits could not be released and were released after some delay. The said explanation is not worth acceptance as admittedly on the date of retirement, there was nothing adverse against the petitioner and even the complaint received against him was also filed by the respondents. Therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues.

9. 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."

10. 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."

11. In view of the above factual position, the present petition is allowed and the respondents are directed to pay the interest @ 6% per annum to the petitioner on the delayed payment of retiral dues w.e.f. 01.07.2018 (after a period of 02 months from the date of retirement) till the date of payment, within a period of 02 months from the date of receipt of certified copy of this order.

06.03.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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