2024:PHHC:167899

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-20353-2024
Date of decision : 16.12.2024

Balwinder Singh .....Petitioner

V/S

State of Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Dhiraj Chawla, Advocate and
Mr. Akshit Dhiman, Advocate for the petitioner.

Ms. Saguna Arora, A.A.G. Punjab.

Ms. Sunint Kaur, Advocate for respondent No.3.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Article 226 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to release the regular pension of the petitioner, revised gratuity and arrears of regular pension along with interest @ 9% per annum w.e.f. 01.04.2017.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner was appointed in the year 1976 as Surveyor in the Punjab Town Improvement Trust Cadre by way of direct recruitment. Thereafter, he was promoted to the post of Junior Engineer on regular basis, vide order dated 08.11.1994, and further promoted to the post of Assistant Trust Engineer, vide order dated 15.11.2011. During the course of his service, charge-sheets dated 29.03.2016 & 01.09.2016 were issued against the petitioner along with other employees on the allegations that shortcomings were found in various construction works.

Thereafter, the petitioner has retired from service on attaining the age of superannuation on 31.03.2017. After retirement, the respondents only released provisional pension of 90% to the petitioner and withheld gratuity on account of abovesaid pending charge sheets. In pursuance to the charge-sheet dated 29.03.2016, a regular departmental enquiry was held and vide order dated 13.06.2018 all the employees including the petitioner was imposed penalty of stoppage of one annual increment with future effect whereas the charge-sheet dated 01.09.2016 was dropped with simple warning to be careful in future vide order dated 26/27.12.2018. However, after the decision of abovesaid charge-sheets neither 100% regular pension has been restored nor gratuity has been released to the petitioner. Thereafter, the petitioner submitted representations dated 03.05.2019 & 30.01.2024 to the respondents for releasing his 100% regular pension and gratuity but no action was taken on the same. The petitioner has also served legal notice dated 12.06.2024 to the respondents for claiming the abovesaid benefits but to no avail. Hence, the present petition.

3. Learned counsel for the petitioner submits that during the pendency of the present petition, the gratuity amount of Rs.16,25,040/- has been received by him on 22.10.2024 through cheque dated 18.10.2024 without any interest. Since there is a considerable delay in releasing the gratuity amount, therefore, the petitioner is entitled for interest on the same. He further submits that since 100% regular pension of the petitioner has not been restored so far, therefore, directions may

be issued to the respondents to release the 100% regular pension to the petitioner and arrears of the same along with interest.

4. Per contra, learned State counsel and learned counsel for respondent No.3 filed reply to the main petition and submit that the State Government issued No Due Certificate in favour of the petitioner on 25.09.2024 and thereafter, the gratuity amount of Rs.16,25,040/- has been released to the petitioner, vide cheque dated 18.10.2024. The delay occurred in releasing the same is due to pendency of two charge-sheets against the petitioner which were concluded vide orders dated 13.06.2018 and 26.12.2018. Therefore, the petitioner is not entitled for any interest. So far as the claim of the petitioner for grant of regular pension is concerned, learned State counsel, on instructions from Ms. Sandeep Kaur, Senior Assistant, Local Government Department, submits that the request for grant of 100% regular pension to the petitioner has been sent to the Additional Deputy Commissioner, Patiala.

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 31.03.2017 and due to pendency of charge-sheets dated 29.03.2016 & 01.09.2016 against the petitioner, his gratuity was withheld by the respondents and only provisional pension of 90% has been released to him. Thereafter, charge-sheet dated 29.03.2016 was decided vide order dated 13.06.2018, whereby the petitioner was imposed penalty of stoppage of one annual increment

with future effect whereas the charge-sheet dated 01.09.2016 was dropped vide order dated 26/27.12.2018 with simple warning to be careful in future. The stand taken by the respondents is that due to pendency of abovesaid charge-sheets, the delay occurred in releasing the gratuity to the petitioner.

7. The gratuity amount of Rs.16,25,040/- has been released to the petitioner vide cheque dated 18.10.2024 which should have been released immediately after the decision of abovesaid charge-sheets dated 29.03.2016 & 01.09.2016. However, 100% regular pension of the petitioner has not been released so far. Since the charge-sheet dated 01.09.2016 was dropped against the petitioner and there is a considerable delay in releasing the gratuity amount to the petitioner, therefore, he cannot be denied the benefit of interest on the same w.e.f. 13.06.2018 i.e. the date of decision of 1st charge-sheet dated 29.03.2016.

8. 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, in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, this Court 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. 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 amount, w.e.f. 13.06.2018 (i.e. the date of decision of 1st charge-sheet dated 29.03.2016) till the actual date of payment and to release 100% regular pension and arrears of pension,

along with interest @ 6% per annum w.e.f. 13.06.2018 till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

16.12.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No