

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-19759-2023 (O&M)
Date of decision : 15.03.2024

Parveen KumarPetitioner

V/S

State of Punjab and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Geetanjali Chhabra, Advocate for the petitioner.

Ms. Arundhati Kulshreshtha, A.A.G., Punjab.

Mr. Gian Chand Garg, Advocate for respondent No.4.

Mr. A.S. Shergil, Advocate
for the applicant/proposed respondent No.6.

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 certiorari for quashing the order dated 26.07.2023 (Annexure P-16), whereby, respondent No.4 while considering the claim of the petitioner for release of retiral benefits i.e. gratuity, leave encashment, arrear of 6th pay commission, pension and other arrears due, along with interest @ 18% per annum, has shifted the burden on the Accounts Branch of Municipal Council, Sirhind to prepare the case of the petitioner and same be put up before the competent authority i.e. House of Municipal Council, Sirhind for passing appropriate orders. The petitioner has further sought a writ of mandamus directing the respondents to release all the retiral benefits of the petitioner, along with 18% interest.

2. Brief facts of the case are that the petitioner had joined the Municipal Council, Fatehgarh Sahib as Peon-cum-Mali on 01.12.1994. He was further promoted as Clerk on 02.05.2002. Due to unavoidable circumstances and poor health condition, the petitioner submitted an application for grant of premature retirement. The competent authority had accepted the request of the petitioner with a direction to release the payment of all retiral dues, vide resolution dated 30.05.2022 and the petitioner was prematurely retired from service on 30.06.2022, at the age of 53 years. When the retiral benefits of the petitioner were not released, he enquired from the Municipal Council and came to know that one Tarun Sharma s/o late Karam Chand Sharma has submitted complaints in respect of discrepancy in his date of birth. After inquiry, nothing adverse was found against the petitioner and the Municipal Council again passed the resolution dated 06.12.2022 for releasing the retiral benefits of the petitioner, however, his retiral benefits have still not been released. Hence this petition.

3. On the last date of hearing i.e. 08.02.2024, the following order was passed :-

“Learned counsel for the petitioner submits that after passing of the impugned order dated 26.07.2023 (Annexure P-16), the matter was placed before the general meeting of the Municipal Council Sirhind, District Fatehgarh Sahib, held on 13.10.2023, wherein approval was granted for releasing the retiral benefits of the petitioner despite, that the same has not been released.

Executive Officer, Municipal Council Sirhind, District Fatehgarh Sahib, shall come present on the next date of hearing to explain as to why the payment of retiral

benefits has not been released despite of the approval granted by the Municipal Council.

Adjourned to 15.03.2024.

Learned counsel for the respondent No.4 shall inform about this order to the Executive Officer.”

4. In pursuance to the abovesaid order, Executive Officer, Municipal Council, Sirhind, District Fatehgarh Sahib, is present in the Court and submits that all the retiral benefits of the petitioner amounting to Rs.14,93,071/- have been released on 16.02.2024.

5. Learned counsel for the petitioner submits that the petitioner has prematurely retired from service on 30.06.2022 and 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*. She further submits that although amount of Rs.14,93,071/- has been paid to the petitioner on account of retiral benefits, however, the details of this amount have not been furnished.

6. The Executive Officer, Municipal Council, Sirhind, District Fatehgarh Sahib, submits that the details of the amount paid to petitioner shall be furnished to the petitioner, within a period of 04 weeks.

7. Learned counsel for respondent No.4 submits that the payments of retiral benefits were not released to the petitioner as certain complaints were received by the Municipal Council against the

petitioner. Those complaints were submitted by Sh.Tarun Sharma s/o Late Karam Chand Sharma r/o House No.3217, New Abadi, Ward No.16, Sirhind, District Fatehgarh Sahib on 23.06.2022 with regard to the discrepancy in the age of the petitioner. He submits that the allegations made in those complaints have been inquired into from the concerned office(s) and no adverse action has been taken against the petitioner and the said complaints have been filed.

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

9. Since either before or after the retirement of the petitioner, no departmental proceedings were pending against him, therefore, the retiral benefits of the petitioner were required to be released within a reasonable time after his premature retirement and since there is a delay of more than 01 year and 08 months in releasing the same, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues.

10. 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.”

11. 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.”

12. 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 retiral dues w.e.f. 01.09.2022 (after two months of his retirement) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

13. However, it is made clear that if something still remains due, the petitioner shall be at liberty to file a representation which shall

be considered and decided by the respondent-Municipal Council, Sirhind, Fatehgarh Sahib, within a period of 03 months, from the date of its filing.

14. Pending applications, if any, shall stand disposed of accordingly.

15.03.2024 (NAMIT KUMAR)
kothiyal JUDGE

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