IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-23363-2022 (O&M)
Date of Decision :13.12.2024

Satosh Kumari ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ranjit S. Dhiman, Advocate for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance being raised by the petitioner is that the petitioner retired from service on attaining the age of superannuation on 30.09.2020 but pensionary benefits of the petitioner have not been released to her by the respondents and that too without any valid justification hence, the respondents are liable to be directed to release the pensionary benefits of the petitioner forthwith along with interest.

Upon notice of motion, the respondents have filed reply wherein, it has been stated that immediately after the retirement of the petitioner in September 2020, certain irregularities alleged against the petitioner, were sent to the Vigilance department of the State of Punjab to initiate enquiry into those allegations and the Vigilance department is still conducting the enquiry into the allegations, hence, no pensionary benefit can be released to the petitioner.

Learned counsel for the respondents submits that once, the vigilance enquiry is pending against the petitioner, department is well within its jurisdiction to withhold the pensionary benefits of the petitioner.

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

It is a conceded position that the petitioner retired from service on 30.09.2020. It is also a conceded position that there is no charge sheet pending against the petitioner which is being inquired by the respondent so as to give department the jurisdiction to withhold the pensionary benefits of the petitioner. Merely that certain complaints were received by the Vigilance department, is no ground to withhold the pensionary benefits of the petitioner. The pensionary benefits can only be withheld keeping in view the rules governing the service in case, the employee is facing departmental or criminal proceedings.

In the present case, the petitioner is not facing either departmental or criminal proceedings, which fact is clear from the reply filed by the respondents. Mere receiving of complaints by the Vigilance department does not amount that petitioner is facing departmental proceedings.

Keeping in view the above, it can be safely said that on the date when the petitioner retired from service, there was no valid jurisdiction with the respondents to withhold the pensionary benefits of the petitioner as admissible to her.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, has held 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 in the release of the same. 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."*

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."*

Keeping in view the fact that no valid justification has been brought before this Court by the respondents so as to withhold the pensionary benefits of the petitioner, the present petition is allowed. The respondents are directed to release the pensionary benefits as admissible to the petitioner forthwith without any further delay.

As the pensioinary benefits admissible to the petitioner have been withheld by the respondents without any valid jurisdiction, the petitioner is also held entitled for the grant of benefit of interest @ 6% per annum on the amount due from the date the petitioner retired from service till the actual payment of the pensionary benefits.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petition stands allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

December 13, 2024 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No