

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-28589-2019 (O&M)

Date of decision: 03.04.2024

Ravinder Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Bhavjit Singh, Advocate for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The prayer made in the present petition is for quashing the impugned order dated 31.07.2019, Annexure P-14, whereby claim of the petitioner for grant of interest @ 18% per annum on the delayed payment of retiral benefits, has been rejected.

2. Learned counsel would submit that having attained the age of superannuation, the petitioner retired from the post of Treasury Officer on 31.03.2006 but his retiral benefits were wrongly withheld even though there was no challan presented in the FIR registered on 11.06.2005 and as such, it could not be said that the criminal proceedings were initiated, for which as a matter of fact, in terms of rules, charge is to be framed. Even otherwise, he was eventually acquitted of the charges by the trial Court vide judgment dated 30.03.2016, Annexure P-4, as the prosecution had failed miserably to bring home the guilt of the accused. Thereafter a legal notice submitted having evoked response, the retiral benefits were released in the year 2017 i.e. proficiency step up (ACP) on 02.01.2017, gratuity on 04.05.2017, leave encashment on 27.03.2017 and difference of pension on 30.05.2017. However, no interest has been paid on delayed payment of the same, for which reliance is placed upon the judgments in

Atam Bodh Sharma vs. State of Haryana and others, CWP-3567-2006, decided on 09.10.2006; **Faquir Chand vs. State of Haryana and others**, CWP-3177-2009 decided on 13.11.2009 and **A.S. Randhawa vs. State of Punjab and others**, 1997(3) SCT 468. Till date, even the computed value of the pension has not been granted.

3. Learned State counsel, on the other hand, submits that the denial of benefits was owing to the fact of FIR registered against the petitioner for offences under Sections 406, 409 and 120-B IPC with allegations that a parcel entrusted to him was found to be containing Rs.3 lakh less. He, however, is unable to dispute the dates of release of retiral benefits.

4. Heard learned counsel on either side.

5. The Division Bench of this Court in **Atam Bodh Sharma** (supra) held that mere registration of FIR cannot be made a ground to withhold the pensionary benefits, relevant paras whereof read thus:

“6. In the present case also there is no conclusion of the trial. Even the challan has not been presented. Therefore, the respondents merely on the basis of registration of the FIR on 21.8.2003, are not within their rights to withhold the pension or pensionary benefits of the petitioner. Therefore, the impugned order dated 15/22.2.2006 (P-7) is liable to be set aside.

7. For the reasons aforementioned, this petition succeeds. The communication dated 15/22.2.2006 is hereby quashed. It is declared that the petitioner is entitled to payment of retiral benefits. Let these benefits be released to the petitioner within a period of one month from today along with gratuity, leave encashment, GIS, suspension allowance, if any, etc.

The writ petition stands disposed of in the above terms.

Petition allowed.”

6. The case of **Faquir Chand** (supra) was disposed of with **Banwari Lal vs. State of Haryana and others**, CWP-4032-2009, since both addressed a common legal issue, wherein retiral benefits were not released on grounds of pendency of charges under section 306, IPC and of appeal against conviction under sections 7/13 of Prevention of Corruption Act, respectively. While granting

the release of entire retiral benefits, this Court observed that, “In Civil Writ Petition No. 3177 of 2009, no departmental proceedings are being held against the petitioner. He is only facing criminal prosecution. It is possible to view that the proceedings under Rule 2.2 (b) of the Rules can only be initiated on conclusion of criminal trial and if the petitioner is found guilty of the charge preferred against him under Section 306 Indian Penal Code. The provisions contained in other clauses can not be read in isolation and as already held by this Court, the continuation of the criminal case can not deprive the petitioner of the benefit of death-cum-retirement gratuity. In Civil Writ Petition No. 4032 of 2009, apparently there is no justification to either withhold pension or pensionary benefits, once the petitioner therein has been acquitted of the charge preferred against him under the Prevention of Corruption Act. The finding of guilty is a *sine-qua-non* for invoking the provisions of the Rules to withhold or discontinue pension or pensionary benefits . Merely because the State has filed an appeal against the order of acquittal would not mean that this acquittal can be taken as a conviction to withhold or withdraw the pensionary benefits. Concededly, the departmental proceedings initiated against the petitioners have been held in abeyance to await the decision in the criminal case. That would also, therefore, not give any justification to the respondents not to release the pensionary benefits to the petitioners.”

7. An employee would be entitled to be compensated by granting interest by the State on account of delayed disbursement of retiral benefits, as was held in **A.S. Randhawa** (supra).

8. Hon’ble the Supreme Court in **Vijay L. Mehrotra vs. State of UP**, 2001 (9) SCC 687, highlighted that in case there is no justification or reason for delayed payment of retiral benefits, interest would be liable to be paid.

9. This Court in **J.S. Cheema vs. State of Haryana**, 2014(13) RCR (Civil) 355, observed that, the interest has to be given to an employee where an amount belonging to him, was retained and utilized by the respondents, has been released on a later date.

10. While stressing on the importance of grant of pension, Hon'ble the Supreme Court held in **State of Kerala vs. M. Padmanabhan Nair**, (1985) 1 SCC 429 that, "Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

11. The release of the amount came about after acquittal of the petitioner in the criminal proceedings vide judgment dated 30.03.2016, even after which release of retiral benefits commenced, after a long gap, in 2017, that too post serving of a legal notice in that regard.

12. Considering the facts and circumstances of the case, the grant of interest is not penal in nature but compensatory, the petitioner having been deprived of an amount, which the respondents unjustly enriched themselves with.

13. In wake of the aforesaid, the present petition is disposed of with a direction to the respondents to pay interest at the rate of 6% per annum on the retiral benefits from the date they fell due till the date of its realization and also grant commutation value of pension within a period of two months.

03.04.2024

ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned :

Yes / No

Whether Reportable :

Yes / No