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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21116-2023

Date of decision: 16.10.2024

RANVIR SINGH

...Petitioner(s)

VERSUS

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ankur Dua, Advocate
for the petitioner.

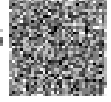
Ms. Dimple Jain, DAG, Haryana.

Ms. Mansi, Advocate for
Mr. Padamkant Dwivedi, Advocate
for respondents No.2 to 7.

JASGURPREET SINGH PURI, J. (Oral)

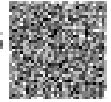
1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondent-Nigam to grant interest @ 18% per annum on delayed payments of gratuity, commutation and pensionary benefits to the petitioner from 01.06.2020 till its realization i.e. 24.02.2022.

2. Learned counsel for the petitioner submitted that the petitioner retired as a Junior Engineer from the respondent-Nigam on 31.05.2020 but was not granted the pensionary benefits and the same were granted to him only on 24.02.2022 and therefore, there is a delay of about 1 year and 9 months in the



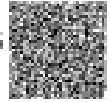
disbursal of the pensionary benefits and he is entitled to interest on the delayed payments. He further submitted that the reason as to why the pensionary benefits were withheld as per the respondents was that the petitioner was initially appointed as Junior Engineer vide Annexure P-1 on 03.08.2004 but at that point of time, due to the pendency of a writ petition and an interim order passed by this Court, his actual joining was delayed and ultimately he was given joining on the aforesaid post vide Annexure P-2 on 28.09.2006.

3. Learned counsel for the petitioner also submitted that the dispute is with regard to as to whether at that point of time, the petitioner would be covered under the Old Pension Scheme or the New Pension Scheme because as per the Policy of the Government, those employees who have been appointed after 01.01.2006 are covered under the New Pension Scheme and those employees who have been appointed prior to the aforesaid date are covered under the Old Pension Scheme but in the present case, although the petitioner was initially granted appointment prior to 01.01.2006 i.e. on 03.08.2004 vide Annexure P-1 but his actual joining took place on 28.09.2006 i.e. after 01.01.2006 vide Annexure P-2 but at the same time, in the appointment letter of the petitioner it was so stated that the terms and conditions as laid down in the offer of appointment will apply. He further submitted that in this way since the appointment of the petitioner would have related back to the time of his initial appointment vide Annexure P-1, which was prior to 01.01.2006, he was entitled to the benefit of Old Pension Scheme accordingly. He further submitted that two days before the retirement of the petitioner, he submitted a representation to the respondent-Nigam vide Annexure P-3 that he may be given one time option



to be covered under the Old Pension Scheme because of his initial appointment which was prior to 01.01.2006 and the aforesaid representation was decided by the respondent-Nigam vide Annexure P-6 on 22.04.2021, whereby the benefit was granted to the petitioner to the effect that he will be governed by the Old Pension Scheme subject to the condition of deposit of NPS premium of the employer. He further submitted that after the aforesaid order Annexure P-6 was passed on 22.04.2021 by the respondent-Nigam, the petitioner was actually granted the pensionary benefits on 24.02.2022 and therefore, he is entitled for the grant of interest on the same from the date of his retirement till the date of its actual disbursement because the respondent-Nigam took time to decide on the issue as to whether the petitioner is to be covered under the Old Pension Scheme or the New Pension Scheme.

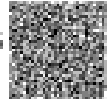
3. On the other hand, learned counsel appearing on behalf of respondents No.2 to 7 while referring to the written statement filed on behalf of respondents No.2 to 7 submitted that there was no intentional delay on the part of the respondent-Nigam and therefore, the petitioner is not entitled for grant of interest. She further submitted that in case the petitioner was to exercise any option with regard to his entitlement for being covered under the Old Pension Scheme instead of New Pension Scheme, he could have done so within a reasonable time prior to his retirement but it was only two days before his retirement i.e. on 28.05.2020 that he moved a representation before the respondent-Nigam vide Annexure P-3 exercising his option for being covered under the Old Pension Scheme and therefore, disbursal of his pensionary benefits was delayed. She further submitted that ultimately on 22.04.2021 vide



Annexure P-6, the petitioner was allowed the conversion from New Pension Scheme to Old Pension Scheme but for that purpose, the amount received by the petitioner under the New Pension Scheme was required to be deposited in the Pension Scheme Fund so as to release him the benefit under the Old Pension Scheme, which was in the nature of NPS premium of the employer and the same was deposited on 08.07.2021 and details of the same are mentioned in para No.1 of the preliminary objections of the written statement filed on behalf of respondents No.2 to 7 and thereafter, on 24.02.2022 all the pensionary benefits have been paid to the petitioner within a period of 8 months.

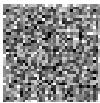
4. I have heard the learned counsels for the parties.

5. The only prayer in the present writ petition is for grant of interest on the delayed payments of pensionary benefits to the petitioner. The petitioner was initially appointed as Junior Engineer vide Annexure P-1 prior to 01.01.2006 but he did not join because of some interim order passed by this Court as per the learned counsels for the parties. The petitioner joined on the aforesaid post after the cut off date of 01.01.2006 and it was the Policy of the Government that those employees who have been appointed after 01.01.2006 were to be governed under the New Pension Scheme and in this way, the petitioner was being governed at the time of his service under the New Pension Scheme but just two days prior to his retirement i.e. on 28.05.2020, he moved a representation vide Annexure P-3 before the respondent-Nigam for converting his New Pension Scheme to Old Pension Scheme on the ground that his initial date of appointment should be considered and the aforesaid representation was considered by the respondent-Nigam and it was ultimately decided to count the



services of the petitioner for the Old Pension Scheme vide Annexure P-6 dated 22.04.2021 and obviously the NPS premium of the employer had to be deposited for the purpose of converting the New Pension Scheme to Old Pension Scheme and this premium was deposited on 08.07.2021 and thereafter within a period of 8 months, the pensionary benefits have been paid to the petitioner i.e. on 24.02.2022.

6. After hearing learned counsels for the parties, this Court is of the considered view that the cause of action which arose to the petitioner was only after the conversion which was made on the basis of representation of the petitioner i.e. on 22.04.2021 vide Annexure P-6 and in fact it was subject to a condition of deposit of NPS premium for which about another 3 months were taken and actually the cause of action for payment of pensionary benefits on the basis of Old Pension Scheme accrued to the petitioner not at the time of his retirement but on 08.07.2021. Thereafter within a period of 8 months, the pensionary benefits have been paid to the petitioner and therefore, there was neither any intentional delay on the part of the respondent-Nigam nor it can be said that any amount of the pensionary benefits was wrongly withheld by the respondent-Nigam. Had it been a case that the petitioner was entitled for the pensionary benefits as per Old Pension Scheme at the time of his retirement then obviously the respondent-Nigam would have been liable to pay the interest because when an amount which is withheld by the respondent authorities is not given, then respondent authorities earn interest on the same, which ought to have been paid to an employee but the same will not be applicable to the present case because it is not a case that at the time of retirement of the



petitioner he was entitled for the pensionary benefits as per the Old Pension Scheme and the pensionary benefits were wrongfully kept by the respondent-Nigam because the right accrued only on 08.07.2021 and within a period of 8 months i.e. on 24.02.2022, all the pensionary benefits were paid to the petitioner and therefore, this Court is of the considered view that the petitioner is not entitled for grant of interest on the same.

7. Consequently, finding no merit in the present writ petition, the same is hereby dismissed.

16.10.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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