

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

(236)

CWP-515-2022

Date of Decision : March 05, 2024

Rajinder Singh**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Sandeep Saini, Advocate, for the petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that on the date when the petitioner retired from service, one criminal case was pending against him due to which, some of his pensionary benefits were withheld but, within a period of seven days of retirement, he was acquitted in the said criminal case but the withheld retiral benefits were only released after a period of three years of acquittal hence, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

2. Learned counsel for the petitioner submits that the petitioner retired from service on 22.03.2017. On the said date, an FIR No.02 dated 11.04.2011 registered under Sections 420, 468 and 471 of the IPC at Police Station SVB, Panchkula, was pending but within a period of seven days of retirement i.e. on 31.03.2017, the petitioner was acquitted by the competent

Court of law of the said allegations hence, the respondents were under an obligation to release the pensionary benefits immediately so that the petitioner suffers no prejudice.

3. Learned counsel for the petitioner further submits that the pensionary benefits have only been released to the petitioner in the year 2019 after a period of more than two years of acquittal hence, non-release of the pensionary benefits within the time frame is attributable to the respondents and the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

4. Learned State counsel, on the other hand, submits that once the criminal proceedings were pending against the petitioner on the date of retirement, some of the pensionary benefits were rightly withheld and as and when the information qua the acquittal of the petitioner from the said criminal proceedings was received, the pensionary benefits have been released hence, the claim of the petitioner for the grant of interest may kindly be rejected.

5. Learned State counsel further submits that as the pensionary benefits were released in the year 2019 and the present writ petition was filed in the year 2022, the same is liable to be dismissed on the ground of delay and latches.

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

7. In the present writ petition, the facts clearly go on to show that within a period of seven days of retirement, there existed no impediment in the release of the pensionary benefits of the petitioner.

8. As per the judgment of the Full Bench of this Court in **A.S.**

Randhawa Vs. State of Punjab and others, 1997(3) SCT 468, the

respondents were under an obligation to release all the pensionary benefits within a period of two months in case there is no impediment hence, the respondents were under an obligation to release all the pensionary benefits of the petitioner by 31.05.2017. 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. In the present case, the respondents took two years to release the pensionary benefits of the petitioner and no justification has come forward for non-release of the said pensionary benefits.

10. 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.”

11. Keeping in view the above, as the delay in release of the pensionary benefits is attributable upon the respondents, the petitioner becomes entitled to be compensated by the grant of interest hence, the petitioner is entitled for the grant of interest @ 6% per annum from the date the amount became due till the actual release of the same.

12. As far as the question of delay in approaching this Court, the respondent being a welfare State, not only should have ensured the release of the retiral benefits within the time frame fixed by the Court but in case, those have not been released, keeping in view the settled principle of law, the respondents themselves should have given the interest rather than forcing an employee to approach this Court. As the delay in release of the pensionary benefits is upon the respondents only, the question of delay in approaching the Court, cannot be considered as a valid reason to deny benefit of interest to the petitioner.

13. In view of the above, the present writ petition is allowed. The respondents are directed to pay the interest as mentioned hereinbefore. The order be complied with within a period of eight weeks of the receipt of certified copy of this order.

March 05, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No