IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-25626-2022
Date of decision : 06.08.2024

Harjoob .....Petitioner

V/S

State of Punjab and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab
for respondents No.1 to 3.

Mr. Sukhwinder Singh Chatrath, Advocate
for respondent No.4.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Article 226 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to (i) pay interest as per the provisions of the Punjab General Provident Fund Rules on delayed deposit of amount of provident fund with the concerned authority from the date the said amount was deducted till the date of retirement; (ii) release the pension, remaining gratuity, leave encashment, provident fund (alongwith interest as aforesaid) and all other benefits and (iii) also pay interest @ 18% on the delayed payment of retiral benefits from the date of retirement till the date of its actual payment.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner had joined the respondents as Safai

Sewak on 01.09.1988 and was posted with respondent No.4. He applied for premature retirement vide application dated 28.03.2022 which was accepted by the respondents and the petitioner has retired from the post of Safai Sewak on 31.07.2022. After retirement the petitioner came to know that the provident fund @ 10% of pay deducted from the salary of the petitioner every month was not deposited by respondent No.4 with the concerned authority as per 'The Punjab General Provident Fund Rules' due to which the petitioner has suffered loss of interest which he would have earned, if respondent No.4 regularly deposited the provident fund amount with the concerned authority. At the time of retirement, the petitioner has been paid only P.F. amount of Rs.1,40,000/-. Thereafter on 08.09.2022, an amount of Rs.5,00,000/- has been paid to the petitioner and the remaining retiral dues have not been released. The petitioner has also served legal notice dated 04.10.2022 to the respondents for releasing his retiral dues, however, no action was taken on the same. Hence, this petition.

3. Learned counsel for the petitioner submits that although during the pendency of the present petition all the retiral dues have been released to the petitioner, however, the same have been released after a considerable delay. Therefore, the petitioner is entitled for interest on the same. The retiral dues have been released to the petitioner in the following manner :-

Sr. No.	Category	Dues	Amount paid	Cheque No. / Date
1.	P.F.	1,40,000/-	1,40,000/-	376842/28.07.2022
2.	Leave Encashment	5,56,800/-	5,00,000/-	376947/08.09.2022
			56,800/-	377446/16.05.2023

3.	Gratuity	10,92,185/-	10,92,185/-	377446/16.05.2023
	Total	17,88,985/-	17,88,985/-	

During the course of hearing, learned counsel for the petitioner restricts his claim for grant of interest on the delayed payment of retiral dues and for other claim he seeks liberty to submit representation before respondent No.4 which may be considered in a time bound manner.

4. Per contra, learned counsel for contesting respondent No.4 submits that during the pendency of the present petition, all the retiral benefits of the petitioner have been released and nothing is remained to be paid. Therefore, the instant petition has been rendered infructuous. He has also produced copy of order dated 02.08.2023 passed by respondent No.4, whereby retiral benefits have been paid to the petitioner, which is taken on record.

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

6. Since either before or after the retirement of the petitioner, no departmental/criminal proceedings were pending against him, therefore, the retiral benefits of the petitioner were required to be released within a reasonable time after his retirement. Since there is a considerable delay in releasing the part payment of leave encashment and gratuity to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

7. 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."*

8. 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."*

9. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to respondent No.4 to pay interest @ 6% per annum to the petitioner, on the delayed

payment of retiral dues, w.e.f. 01.11.2022 (i.e. after three 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.

10. For his other claims, the petitioner shall be at liberty to make representation before respondent No.4, within a period of 04 weeks from today, which shall be considered and decided by respondent No.4, within a period of 03 months thereafter by passing a speaking order and after granting an opportunity of personal hearing.

06.08.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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