IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-26092-2022
Date of decision : 01.10.2024

Baljit Singh .....Petitioner

V/S

State of Punjab and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Amit Sharma (Kanav), Advocate
for the petitioner.

Ms. Saguna Arora, A.A.G. Punjab.

Mr. Munish Gulati, Advocate
for respondent No.3.

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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 respondent No.2 to take immediate necessary action and to give necessary approval on letter dated 07.02.2022 (Annexure P-6) and directing respondent No.3 to release all the retiral dues of the petitioner along with interest @ 18% per annum from the date of its accrual till its actual realization. Further, directing respondent No.3 to remove the objections sent by the Employees Provident Fund Organization so as to enable them to release EPF pension of the petitioner.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner was inducted into service with

respondent No.3-Federation on 23.09.1983 as Class IV employee purely on temporary basis. He was promoted as Clerk-cum-Typist on 07.11.2011 and retired from service on attaining the age of superannuation on 30.04.2021. After his retirement, the petitioner made various representations before the respondents for releasing his retiral dues. After making repeated requests to the respondents for releasing of his retiral dues, the petitioner came to know that his retiral dues were not released on account of an audit objection pertaining to his initial appointment as Class IV employee which was on temporary basis. The status of temporary remained intact till his promotion to the post of Clerk. Thereafter, the matter was examined by the Board of Directors, Housefed in its meeting held on 06.12.2021 and the case of petitioner was resolved and respondent No.3 was authorized to clear the issue at his end. However, instead of passing an appropriate order, respondent No.3 vide letter dated 07.02.2022, requested to respondent No.2 to give prior approval for clearing the case of the petitioner. Thereafter, despite making various representations to the respondents, retiral dues of the petitioner have not been released. Hence, the present petition.

3. Learned counsel for the petitioner submits that the petitioner has retired from service on attaining the age of superannuation on 30.04.2021 and his retiral dues amounting to Rs.11,70,478/- (Gratuity amounting to Rs.7,28,788/- + Leave Encashment amounting to Rs.4,41,690/-) have been released on 08.02.2023, during the pendency of the petition. Since the retiral dues of

the petitioner have been released after a considerable delay, therefore, the petitioner is entitled for interest on the same.

4. Per contra, learned counsel for contesting respondent No.3 submits that all the retiral benefits of the petitioner have been released and nothing remains to be paid. However, he conceded the fact that some delay has occurred in releasing the retiral benefits of the petitioner which is entirely procedural and not intentional as the services of the petitioner was regularized vide order dated 27.01.2023 and thereafter, approval has been given to release the retiral dues of the petitioner. Therefore, the instant petition has been rendered infructuous.

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

6. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 30.04.2021. Since either before or after retirement, no departmental/criminal proceedings were pending against the petitioner, therefore, his retiral dues were required to be released within a reasonable time after his retirement. However, his retiral dues amounting to Rs.11,70,478/- have been released on 08.02.2023 i.e. after a lapse of about 01 year and 07 months. Hence, there is a considerable delay in releasing the retiral benefits 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.3 to pay interest @ 6% per annum to the petitioner, on the delayed payment of retiral dues, w.e.f. 01.07.2021 (i.e. after two 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.

01.10.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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