IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226

CWP-33057-2019 (O&M)
Date of decision : 23.08.2024

Varinder Kumar .….Petitioner

V/S

Punjab State Civil Supplies Corporation Ltd. and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ravish Bansal, Advocate for the petitioner.

Mr. Avinit Avasthi, Advocate for the respondents.

****

NAMIT KUMAR, J. (ORAL)

CM-14779-CWP-2023

Prayer in the instant application filed under Section 151 of CPC is for placing on record replication to the written statement filed on behalf of the respondents.

Allowed as prayed for and replication filed by the petitioner is taken on record.

CWP-33057-2019

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to pay interest @ 18% per annum on the delayed payment of retiral benefits and further seeking a writ of certiorari, quashing the order dated 23.09.2019 (Annexure P-10) passed by respondent No.1, whereby the claim of the

petitioner for grant of interest on the delay payment of retiral benefits has been declined.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner had joined the services of respondent-Corporation on 21.06.1984 as Accountant and lateron re-designated as Senior Assistant (Accounts). His last posting was as Senior Assistant (Accounts) in the office of respondent No.3 from where he has retired on attaining the age of superannuation on 31.05.2018. However, the respondent-Corporation with the sole motive to illegally withhold the retiral benefits of the petitioner, issued a charge-sheet dated 15.05.2018 against the petitioner merely two weeks prior to his retirement with regard to some old arbitration matter relating to crop year 2009-10 of district Faridkot. At the time of his retirement, the petitioner was only paid the benefits of his provident fund, whereas gratuity of Rs.10,00,000/- as well as leave encashment of approx. Rs.8,50,000/- were withheld by the respondents due to pendency of abovesaid charge-sheet. The petitioner filed detailed reply dated 06.06.2018 to the charge-sheet dated 15.05.2018. Since the petitioner was never at fault, no departmental inquiry was initiated by the respondents and the said charge-sheet was dropped/set aside vide order dated 22.06.2018 passed by respondent No.1 by merely censuring services of the petitioner. Thereafter, the petitioner made various representations dated 05.07.2018, 20.07.2018, 27.07.2018, 06.10.2018, 25.10.2018 and 10.11.2018 to respondent No.3 for forwarding his case for payment of his retiral benefits to the head office but no action was taken on the

same. On 19.11.2018, respondent No.3 forwarded petitioner's case to respondent No.1 along with No Dues Certificate. Despite issuance of No Dues Certificate, his retiral benefits were not released by respondent No.1. On which, the petitioner submitted detailed representations dated 21.01.2019, 22.02.2019 and 20.03.2019 to respondent No.1 for releasing his retiral benefits, however, no action was taken on the same. Thereafter, the petitioner approached this Court by filing *CWP No.11763 of 2019 titled as 'Varinder Kumar Vs. Punjab State Civil Supplies Corporation Limited and others'* for issuance of directions to the respondents for releasing his retiral benefits and interest thereupon. The said writ petition was disposed of by this Court vide order dated 06.05.2019 with a direction to the respondents to decide the representations dated 21.01.2019, 22.02.2019 and 20.03.2019 made by the petitioners by passing a speaking order, within a period of three months, from the date of receipt of certified copy of the order. Pursuant to order dated 06.05.2019 passed by this Court, respondent No.1 vide order dated 11.06.2019, ordered to release the retiral benefits of the petitioners. Further, vide order dated 15.07.2019 passed by respondent No.1, a sum of Rs.18,57,470/- (Rs.10,00,000/- on account of gratuity and Rs.8,57,470/- on account of leave encashment) was sanctioned for releasing to the petitioner which was actual paid on 06.08.2019. However, no interest on the delayed payment of retiral benefits has been paid to the petitioner. Thereafter, the petitioner served a legal notice dated 13.08.2019 to the respondents through his counsel for grant of interest on the delayed payment of retiral benefits. In response to the said legal notice, respondent No.1 has passed the impugned order dated 23.09.2019 declining the claim of the petitioner for grant of interest. Hence, this petition.

3. Learned counsel for the petitioner submits that the claim of the petitioner for releasing interest on the delayed payment of retiral benefits has been rejected by respondent No.1, vide impugned order dated 23.09.2019, merely on the ground that a charge-sheet dated 20.08.2014 was pending against the petitioner which was lateron dropped vide order dated 03.06.2019. He submits that no such charge-sheet was ever issued/served against the petitioner. Since neither any such charge-sheet existed nor was ever communicated to the petitioner, therefore, the facts mentioned in the impugned order are wrong and perverse. The impugned order is liable to be set aside and the petitioner is entitled for interest on the delayed payment of retiral benefits.

4. Per contra, learned counsel for the respondents submits that all the retiral benefits of the petitioner have been released and nothing is 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 two charge-sheets dated 20.08.2014 and 15.05.2018 were pending against the petitioner which were ultimately dropped on 03.06.2019 and 22.06.2018, respectively.

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 31.05.2018. However, his retiral

benefits were withheld by the respondent-Corporation till the receipt of No Dues Certificate from district Bathinda and PUNSUP Head Office and decision of departmental cases pending against him. The charge-sheet dated 15.05.2018 issued against the petitioner, 15 days prior to his retirement, was ultimately dropped on 22.06.2018 by merely censuring his services. Despite that the retiral benefits of the petitioner amounting to Rs.18,57,470/- (Rs.10,00,000/- on account of gratuity and Rs.8,57,470/- on account of leave encashment) have been paid to the petitioner on 06.08.2019.

7. So far as charge-sheet dated 20.08.2014 is concerned, no record is available with the respondent-Corporation which shows that any such charge-sheet has ever been issued against the petitioner. This fact has also been admitted by the respondents vide order 03.06.2019 (Annexure R-1). Since 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.

8. 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."

9. 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."

10. In view of the above factual position and settled principles of law, the present petition is allowed and respondent-Corporation is directed to pay interest @ 6% per annum to the petitioner, on the delayed payment of retiral benefits, w.e.f. 01.09.2018 (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.

23.08.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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