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

(266) **CWP-28503-2022**
Date of Decision : August 28, 2024

Mohinder Singh **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gopal Singh Nahel, Advocate, for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that he retired from service on attaining the age of superannuation on 31.03.2021 but all his pensionary benefits have not been released even though, there was no disciplinary proceeding pending against him on the day when he superannuated on 31.03.2021.

2. Learned counsel for the petitioner submits that only on the basis of some complaint being enquired into by the Vigilance Department, Punjab, the pensionary benefits of the petitioner have been withheld without there being any disciplinary proceedings initiated on the basis of the said complaint.

3. Learned counsel for the petitioner further submits that in the absence of any disciplinary proceedings pending against the petitioner, there is no jurisdiction with the respondents to withhold the pensionary benefits hence, the respondents are liable to be directed to release all the withheld pensionary benefits along with interest.

4. Learned State counsel, keeping in view the reply filed and as per instructions received from Ms. Napinder Kaur, Jr. Assistant, O/o Civil Surgeon, Fatehgarh Sahib, concedes the factum that there are no disciplinary proceedings, which are pending against the petitioner even on the day when he retired.

5. Learned State counsel submits that there is a complaint which is being referred to the Vigilance Department, Punjab and only on the basis of the said complaint, some of the pensionary benefits of the petitioner have been withheld.

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

7. The retiral benefits can only be withheld in case there is a jurisdiction with the respondents to withhold the same keeping in view the Rules governing the service.

8. Learned State counsel has not been able to show any Rule according to which, in the absence of any disciplinary proceedings pending against the petitioner, the retiral benefits can be withheld.

9. No Rule has been shown that mere that the complaint is being enquired into by the Vigilance Department, Punjab, the pensionary benefit is to be withheld. In the absence of any such jurisdiction conferred upon the

respondent-State to withhold the pensionary benefits even when the complaint is being enquired into by the Vigilance Department, Punjab, withholding of the pensionary benefits of the petitioner after his retirement is arbitrary and illegal.

10. As per the judgment of the Hon'ble Supreme Court of India in ***Union of India Vs. K.V. Jankiraman, (1991) 4 SCC 109***, the disciplinary proceedings can only be deemed to be pending in case any charge-sheet has been served upon an employee.

11. Learned State counsel very fairly conceded that upto the date of retirement, there was no disciplinary proceeding pending against the petitioner.

12. That being the factual position, there is no jurisdiction with the respondents to withhold the pensionary benefits of the petitioner merely on the ground that some complaint is being looked into by the Vigilance Department, Punjab. Hence, the respondents are directed to release all the pensionary benefits of the petitioner forthwith.

13. Learned counsel for the petitioner submits that despite having no jurisdiction, pensionary benefits of the petitioner have been stopped and it is more than three years that the same have been withheld and therefore, the petitioner is entitled for the grant of interest on the withheld pensionary benefits.

14. Learned State counsel submits that once, the order is being passed by this Court today directing the release of the pensionary benefits, the prayer of the petitioner for the grant of interest may kindly be declined.

15. It may be noticed that as per the judgment of the Full Bench of this Court in A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** the pensionary benefits are to be released within a period of two months of the retirement in case there is no impediment failing which, 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 retirer 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 front 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."*

16. 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 **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."

17. Keeping in view the above, as there was no jurisdiction with the respondent-State to withhold the pensionary benefits of the petitioner as there were no departmental proceedings pending against him at the time of his retirement and the said benefits have been withheld for more than three and half years, the petitioner is held entitled for interest @ 6% per annum on the withheld pensionary benefits from the date the pensionary benefits became due till the actual payment of the same. Let the order be complied with within a period of eight weeks of the receipt of copy of this order.

18. The present writ petition is allowed in above terms.

August 28, 2024 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

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