IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 **CWP-40346-2018**
Date of Decision :06.02.2024

Savitri Devi **...Petitioner**

Versus

State of Haryana and others **....Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shailendra Sharma, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that the pensionary benefits for which, the petitioner was entitled upon her retirement, have not been released by the respondents so far.

2. Learned counsel for the respondents submits that as per the affidavit dated 01.02.2024 filed on behalf of the respondents No. 1 to 4, all the pensionary benefits have already been released to the petitioner and only the benefit of leave encashment was to be released, which benefit has also been sanctioned by the respondents on 29.01.2024 and the same will be released shortly in the bank account of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner retired on attaining the age of superannuation in the year 2002 whereas, benefit of leave encashment is being sanctioned after a period of 22 years hence, the petitioner is entitled for the grant of interest on the said delayed release of the benefit of leave encashment.

4. Learned counsel for the respondents does not dispute the fact that the leave encashment for which, the petitioner was entitled at the time of her retirement has been sanctioned as of now and the same is yet to be released to the petitioner.

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

6. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468***, has held that an employee is entitled for the release of his pensionary benefits within a period of two months of his retirement in case there is no impediment in the release of the same. 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."*

7. 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 formof 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."*

8. In the present petition, it is a conceded position that the petitioner retired from service in the year 2002 and after a period of 22 years, benefit of leave encashment has been sanctioned in favour of the petitioner.

9. Further, nothing has come on record that there was any impediment in the release of the same but still the respondents had taken 22 years for sanctioning the said benefit of leave encashment which is yet to be released hence, keeping in view the facts and circumstance of the present case coupled with the settled principle of law cited hereinbefore, the petitioner is held entitled for the grant of interest on the said delayed release of benefit of leave encashment.

10. Further, as per Annexure R-1, appended by the respondents themselves with their reply dated 08.09.2022, it is clear that Pension Payment Order (PPO) of the petitioner was sanctioned in the year 2020 only whereas, the petitioner has retired from service in the year 2002. Nothing has come on record as to why, the pension has not been released to the petitioner for a period of 18 years. That being the factual position, the petitioner is also held entitled for the grant of arrears of pension along with

interest @ 6% per annum from the date the same became due till the actual payment has been made to her.

11. Let the amount of interest for which the petitioner is held entitled be calculated and released to the petitioner within a period of 08 weeks from the date of receipt of copy of this order.

12. Civil miscellaneous application pending, if any, is also disposed of .

February 06, 2024 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

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