

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No. 36371-2019
Date of decision: 01.03.2024

Rajinder Kumar ...Petitioner

vs.

State of Punjab and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sunny Singla, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab

AMAN CHAUDHARY. J.

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing of order dated 17.09.2019, Annexure P-7, vide which respondent No.3 had not released the interest w.e.f 01.07.2017.
2. Learned counsel would submit that petitioner retired on 30.06.2017 after attaining the age of 60 years on having been granted extension of two years. However, retiral dues were paid in January, 2018 on account of the fact that a charge sheet was issued against him on 30.03.2017, during the period of second extension, which was however withdrawn on 20.11.2017. The petitioner has been paid interest on delayed payment of GPS and gratuity, but was not paid the same on the delayed payment of Leave Encashment and GIS as well w.e.f 01.10.2017 i.e., after 03 months from the date of his retirement and is thus, claiming interest in view of the judgment of **Bal Chand and others vs. Punjab Water Resource Management and Development Corporation Ltd and others**, passed in CWP-15793-2016, decided on 19.09.2019.

3. Learned State counsel, on the contrary, contends that there is no provision in the Rules to grant interest on delayed payment of Leave Encashment and GIS.

4. Heard the learned counsel on either side.

5. As laid down by the Full Bench of this Court in **A.S. Randhawa vs. State of Punjab and others**, 1997(3) SCT 468, an employee would be entitled to be compensated by granting interest by the State on account of delayed disbursement of retiral benefits.

6. Hon'ble the Supreme Court in **Vijay L. Mehrotra vs. State of UP**, 2000(2) RSJ 647 (SC), held that in case there is no justification or reason for delayed payment of retiral benefits, interest would be liable to be paid.

7. This Court in **J.S. Cheema vs. State of Haryana**, 2014(13) RCR (Civil) 355, held that, the interest has to be given to an employee where an amount belonging to him was retained and utilised by the respondents, has been released on a later date.

8. Insofar as the plea of the petitioner, of not having been paid interest on the amount released after exoneration from the charges, a beneficial reference can be made to the judgment of Hon'ble the Supreme Court in **S.K. Dua vs. State of Haryana**, (2008) 3 SCC 44, wherein, the retiral benefits of the appellant, who had rendered 37 years of service, which were withheld due to pending disciplinary proceedings, were released after four years of his exoneration, but sans the interest on the ground of there being no provision for granting it, as is the plea raised in the case at hand as well, it was observed that, "In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on

such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

9. Considering the peculiar facts and circumstances of the case, in light of the enunciation of law, the present writ petition is disposed of, with a direction to the respondents to pay the interest at the rate of 6% per annum on the amount of Leave Encashment and GIS, w.e.f 01.07.2017 till the date of their release, within a period of two months from the date when a web-print of this judgment is received.

(AMAN CHAUDHARY)
JUDGE

01.03.2024
G Arora

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