

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-28578-2023
Date of Decision : 23.01.2024

Krishan KumarPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Peeush Gagneja, Advocate for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

Mr. Ajay Jain, Advocate for respondent No.4.

NAMIT KUMAR, J. (ORAL)

1. Learned counsel for respondent No.4 has filed his power of attorney in the Court which is taken on record.
2. The petitioner has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release the retiral benefits of the petitioner along with interest.
3. Learned counsel for the petitioner submits that the petitioner had retired on 28.02.2023 as Sewerman on attaining the age of superannuation from Municipal Council, Jalalabad (respondent No.4), however, he has not received all the retrial benefits till date. Therefore, directions may be issued to the respondents to release the

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remaining amount of retiral benefits to the petitioner along with interest on delayed payment of amount of retiral benefits.

4. Learned counsel for respondent No.4 had sought time on 16.01.2024 for getting instructions from respondent No.4-Municipal Council, Jalalabad. On instructions, he submits that out of total amount of retiral benefits i.e. Rs.20,82,876/-, a sum of Rs.13,25,662/- have already been paid to the petitioner on different dates and only a sum of Rs.7,57,214/- remains to be paid to the petitioner and due to the financial constraints of the Committee, the said amount has not been paid so far. He further submits that if reasonable time is granted, the remaining amount will be disbursed to the petitioner. However, he conceded the fact that out of Rs.13,25,662/-, which has already been paid to the petitioner, the amount of Rs.8,00,000/- has been paid after a period of three months from the retirement of the petitioner.

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

6. It is a well settled law that the retiral benefits of the employee is his property and the same cannot be withheld without any justifiable reasons.

7. It is an admitted fact that no proceedings were pending against the petitioner before or after his retirement, therefore, he is entitled for the release of his retiral benefits atleast within a period of 03 months from the date of his retirement i.e. upto 31.05.2023, however, out of total amount of Rs.20,82,876/-, the amount of Rs.7,54,214/- is yet to be paid to the petitioner and even out of Rs.13,25,662/-, which has

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already been paid to the petitioner, the amount of Rs.8,00,000/- has been paid after 30.05.2023.

8. Undisputably, a writ in the nature of mandamus is also legally maintainable seeking grant of interest on the delayed payment in view of law laid down by the Hon'ble Apex Court in ***Vijay L. Malhotra Vs. State of U.P. : 20004(4) SCT 267*** as well as Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab & others : 1997(3) SCT 468*** wherein it has further been categorically observed that in case of delay in payment of retiral benefits, interest has to be paid. However, interest may vary from case to case depending upon the facts & circumstances thereof. It has been further observed that a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules and simultaneously a duty is cast upon the State to ensure the disbursement of pension and other benefits to the retiree in proper and reasonable time. However, the reasonable and proper time for release of the pension has also been held to be three months from the date of retirement or the accrual of cause of action. In ***State of Kerala Vs. M. Padmanabhan : AIR 1985 SC 356; D.D. Tewari (D) through LRs Vs. Uttar Haryana Bijli Nitran Nigam Ltd. : 2014(4) S.C.T. 128; A.S. Randhawa Vs. State of Punjab (supra); J.S. Cheema Vs. State of Haryana & others : 2014(3) RCR (Civil) 355; and Manohar Lal Vs. State of Punjab & others : 2016(4) SCT 250***, it has been held that normally payment of retiral benefits should not be delayed more than three months from the date of retirement and all the benefits should be extended within the aforesaid stipulated period.

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Further, where there is a considerable delay, pensioner deserves to be compensated by way of grant of interest as per the service rules/ regulations as well as Government instructions issued from time to time and various judgments, referred to above.

9. In view of the above, the present petition is allowed and respondent No.4-Municipal Council, Jalalabad is directed to release the balance amount of Rs.7,57,214/- to the petitioner within a period of 02 months from today. The petitioner shall also be entitled to interest @ 6% per annum on the delayed payment from expiry of three months from the date of retirement of petitioner to actual date of payment, which shall be paid by respondent No.4 after calculating the same within a period of 02 months from today.

23.01.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No