2025:PHHC:011090

[1] **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

236 CWP-12837-2023 (O&M)
Date of decision: 24.01.2025

Surjit Chaudhary ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present : Mr. DS Patwalia, Sr. Advocate with
Mr. AS Chadha, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

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AMAN CHAUDHARY, J. (ORAL)

1. The petitioner, while in service of Department of Health and Family Welfare, Punjab, as a Medical Officer (Dental), was embroiled in FIR No. 14, registered on 21.08.2020 at Thana Vigilance Bureau, Patiala, under Section 7 of the Prevention of Corruption Act, 1988, the subsistence whereof was singularly invoked in the order dated 31.12.2020 to justify the denial of his pension settlement, restricting him merely to a provisional pension.

2. The petitioner was due to superannuate in the year 2019 after rendering 25 years of service, but the same was extended until 30.09.2020 due to the onset of COVID-19. Following his arrest on 21.08.2020 in the FIR registered against him, he was placed under suspension on 12.10.2020 and subsequently retired by an order dated 03.11.2020, which also withdrew his suspension and approved the revision of his retirement date from 30.09.2020 to

[1] 1991(4) SCC 109

21.08.2020, as evident from Annexure P-8. No departmental proceedings were initiated against him, nor was challan presented as on the date of his retirement, but still retiral benefits were withheld.

3. By interpreting Rule 2.2 of Punjab Civil Services Rules Vol-II Chapter-II and relying on **Union of India vs. K.V. Jankiraman**[2], wherein Hon'ble the Supreme Court held that the "proceeding" would only be considered to be initiated / pending in case the challan has been filed in the criminal Court, the Division Bench of this Court in **Atam Bodh Sharma vs. State of Haryana and others,** CWP-3567-2006, while dealing with the question as arises in present case that whether mere registration of FIR can be a ground to deny the pensionary benefits, vide judgment dated 09.10.2006, to which no challenge has been made, observed and held thus:

> "6. In the present case also there is no conclusion of the trial. Even the challan has not been presented. Therefore, the respondents merely on the basis of registration of the FIR on 21.8.2003, are not within their rights to withhold the pension or pensionary benefits of the petitioner. Therefore, the impugned order dated 15/22.2.2006 (P-7) is liable to be set aside.
> 7. For the reasons aforementioned, this petition succeeds. The communication dated 15/22.2.2006 is hereby quashed. It is declared that the petitioner is entitled to payment of retiral benefits. Let these benefits be released to the petitioner within a period of one month from today along with gratuity, leave encashment, GIS, suspension allowance, if any, etc.
> The writ petition stands disposed of in the above terms.
> Petition allowed."

4. While addressing a congruent legal issue of restricting the retiral benefits based on pendency of FIR and also in case of an appeal against acquittal having been filed, the same was found to be fundamentally flawed in

[2] 1991(4) SCC 109

Faquir Chand vs. State of Haryana and others, CWP-3177-2009 and **Banwari Lal vs. State of Haryana and others**, CWP-4032-2009, disposed of vide a common judgment dated 13.11.2009, LPA against which stands dismissed.

5. Stressing on the importance of granting pension, Hon'ble the Supreme Court in **State of Kerala vs. M. Padmanabhan Nair**[3]**,** held that, "Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

6. Given the authoritative rulings in **A.S. Randhawa vs. State of Punjab and others**[4], and **Vijay L. Mehrotra vs. State of UP**[5], it is irrefutable that a retiree is rightfully entitled to compensation for delayed disbursement, best remedied by awarding interest on the outstanding sum from the date of superannuation, especially in the absence of any legitimate justification for the deferment. Full Bench of this Court in **A.S. Randhawa** (supra) underscored that upon retirement, a government employee acquires an immediate right to pension and allied benefits, imposing a duty on the State to facilitate their disbursement within a reasonable period, ideally not exceeding two months. Failure to do so entitles the retiree to compensation via interest. Similarly in **J.S. Cheema vs. State of Haryana**[6], the Court likened such interest to "rent for

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3 (1985) 1 SCC 429
4 1997(3) SCT 468
5 2001 (9) SCC 687
6 2014(13) RCR (Civil) 355

the usage of money" that rightfully belonged to the petitioner but was unjustly retained and utilized by the State.

7. Any unwarranted delay in disbursing pension and other retiral benefits, a vested right, necessitates recompense through interest, not merely as compensation for the deprivation suffered but as redress for the undue advantage wrongfully accrued to the respondents, serving as reparation rather than a penalty.

8. In wake of the aforesaid, the present petition is allowed. The impugned order dated 31.12.2020 is set aside with a directive to the respondents to release all pensionary benefits with interest at the rate of 6% per annum from the date they fell due till the date of its realization. Needful be done within a period of three months.

24.01.2025 **(AMAN CHAUDHARY)**
ashok **JUDGE**

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