

HIGH COURT OF PUNJAB AND HARYANA

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Date of Decision: 13.02.2024

CWP No.21795 of 2016 (O&M)

Jatinder Pal Singh ...Petitioner

VERSUS

Punjab State Power Corporation Limited and others ...Respondents

Legislation:

Articles 226/227 of the Constitution of India

Punjab Civil Services Rules, Volume I

Subject:

Petition for issuance of writ of certiorari for quashing order denying interest on delayed payment of retiral benefits and mandamus directing respondents to release interest on delayed payment of GPF, gratuity, etc.

Headnotes:

Service Law – Retirement Benefits – Delayed Payment – Entitlement to Interest - The High Court of Punjab and Haryana addressed the issue of delayed payment of retiral benefits to the petitioner, a retired Assistant Engineer. The Court was tasked with determining the justification of the delay and the petitioner's entitlement to interest on delayed payments of General Provident Fund (GPF) and gratuity. [Para 1, 7, 10]

Procedural History – The petitioner sought relief for non-payment of retirement benefits post-retirement. A legal notice was issued, followed by a writ petition, leading to the respondents being directed to consider the petitioner's claim. Subsequent refusal to pay interest on delayed benefits prompted the current writ petition. [Para 1-3]

Respondents' Position – The respondents argued that the delay in releasing retirement benefits was due to the petitioner's late submission of necessary documents, including property details required under Conduct Rules. [Para 3, 5]

Court's Findings – The Court noted the unjustified delay in releasing gratuity and GPF payments. Relying on precedents, the Court observed that employees are entitled to interest on delayed payments when the delay is not justifiable. [Para 7-9]

Decision – The High Court partly allowed the writ petition, directing the respondents to pay interest on the GPF amount from the date of retirement to the date of payment at the applicable GPF interest rate. Additionally, the Court ordered the payment of 6% interest on delayed gratuity from the conclusion of disciplinary proceedings to the date of gratuity payment. [Para 10-11]

Referred Cases:

- A.S. Randhawa Vs. State of Punjab and others: 1997(3) S.C.T. 468
- J.S. Cheema Vs. State of Haryana: 2014(13) RCR (Civil) 355

Representing Advocates:

Mr. Surinder Gaur for the petitioner.

Mr. Japsehaj Singh for the respondents.

NAMIT KUMAR J. (Oral)

1. Prayer in this writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the order dated 15.12.2015 (Annexure P-5) passed by respondent No.3 vide which the claim of the petitioner for grant of interest on the delayed payment of retiral benefits has been rejected. Further a writ of mandamus has been sought for directing the respondents to release the interest on the delayed payment of GPF, gratuity, etc.

2. The brief facts, as have been pleaded in the present petition, are that the petitioner was working as an Assistant Engineer with the respondents and he retired as such on 31.10.2013 on attaining the age of superannuation. However, his retiral benefits were not released except for leave encashment, which was paid to him within time. On 06.05.2015, the petitioner served a legal notice (Annexur eP-3) upon the respondents for releasing gratuity, GPF and other benefits and since no action was taken on the said legal notice, the petitioner filed CWP No.15044 of 2015, which was disposed of by this Court vide order dated 27.07.2015, with the direction to respondent No.3 to consider and decide the legal notice dated 06.05.2015, within a period of 04 months. In pursuance thereto, vide order dated 15.12.2015, the claim of the petitioner for grant of interest on the delayed payment of retiral dues has been rejected. Aggrieved against the said order, the petitioner has filed the present writ petition.

3. On issuance of notice of motion, a detailed written statement on behalf of respondents No.1 to 4 has been filed by respondent No.3 wherein it has been stated that the petitioner was earlier issued show cause notice dated 15.09.2009, which was concluded with punishment of stoppage of one annual increment, without future effect, vide order dated 15.09.2011 (Annexure R-2) and appeal dated 03.11.2011 preferred by the petitioner was also rejected by the Appellate Authority on 28.05.2014 (Annexure R-3). Another chargesheet dated 12.06.2014, was issued to the petitioner, which was concluded with punishment order of 5% cut in pension for a period of 01 year, vide order dated 08.12.2014 (Annexure R-5). It is the case of the respondents that after the said charge-sheet was finalized, the petitioner was released GPF final amount of Rs.3,61,248/- on 31.12.2014 and the gratuity amount of Rs.9,99,174/- on 22.04.2015, which includes interest of 06 months i.e. upto 30.04.2014. It is further the case of the respondents that before retirement of the petitioner, he was directed vide letters dated 04.08.2009 followed by reminders dated 25.10.2013, 01.04.2014, 15.05.2014, 30.07.2014,

13.08.2014, 21.03.2014 and 16.09.2014, to submit and finalize the property details (both movable and immovable) for the year 2006-07 and from 2007-08 to 2011-12 as well as other required property documents purchased in the name of self/his wife as required under the Conduct Rules and he submitted the property returns along with documents in the office of Under Secretary/Secretary (Gaz.), PSPCL, Patiala, on 26.08.2014 and remaining documents on 22.09.2014 and it was only after completion of all the formalities completed by the petitioner, No Due Certificate dated 01.10.2014, was issued and thus, the delay is on the part of the petitioner.

4. Learned counsel for the petitioner submits that although the charge-sheet dated 12.06.2014 was concluded on 08.12.2014 by awarding the punishment of 5% cut in pension for a period of 01 year vide order dated 08.12.2014 (Annexure R-5), yet there is delay of 04 months in releasing the payment of gratuity of Rs.9,97,174/-. He submits that withholding the GPF amount was also not justified as the final GPF payment of Rs.3,61,248/- was released to the petitioner on 31.12.2014 and there is no provision under the Rules, to withhold the said payment, although the gratuity amount can be withheld in terms of Rule 9.14 (c) of the Punjab Civil Services Rules, Volume I, on which the respondents are placing reliance and the same has been attached as Annexure R-6.
5. On the other hand, learned counsel for the respondents submits that there is no substantial delay on the part of the respondents in releasing the retiral benefits to the petitioner and the delay, if any which has occurred, is only on account of the petitioner as he has submitted all the property documents on 22.09.2014 and thereafter, No Due Certificate dated 01.10.2014, was issued.
6. I have heard learned counsel for the parties and perused the record with their able assistance.
7. Admittedly, the charge-sheet dated 12.06.2014 was concluded on 08.12.2014 by awarding the punishment of 5% cut in pension for a period of 01 year and

there is no justification to withhold the payment of gratuity for more than 04 months as the same was released on 22.04.2015.

8. A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, the 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 retiree 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 from 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.”

9. Apart from this, the 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 the said judgment 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.”

10. Since the petitioner retired on 31.10.2013, the payment of Rs.9,99,174/- as gratuity was required to be released immediately after 08.12.2014. Further

the final payment of Rs.3,61,248/- of G.P.F. was released on 31.12.2014 and since there is no provision to withhold the GPF payment, the petitioner is entitled for the admissible interest which is applicable to the GPF amount.

- 11.** Consequently, the present writ petition is partly allowed and the respondents are directed to grant interest on the GPF final amount of Rs.3,61,248/- from 01.11.2013 to 31.10.2014 at the admissible rate of interest, which is applicable to GPF amount and the petitioner is also held entitled for 6% interest on the delayed gratuity payment of Rs.9,99,174/- from 08.12.2014 till 21.04.2015, which shall be paid by respondents within a period of 02 months from the date of receipt of certified copy of this order.
- 12.** The present petition is disposed of in the above terms.

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