(2019) 08 P&H CK 0126

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6193 Of 2016

Ashok Kumar	APPELLANT
Vs	
Haryana State Federation Of Consumers' Cooperative Wholesale Stores Ltd. & Anr	RESPONDENT

Date of Decision : 26-08-2019

Acts Referred:

Citation : (2019) 08 P&H CK 0126

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Richadeep Bajaj, Rajeev Sharma, Himanshu Garg, Sourabh Goel

Final Decision : Allowed

Judgement

Harsimran Singh Sethi, J

In the present writ petition, the grievance which is being raised by the petitioner is that though the petitioner retired on attaining the age of superannuation on 30.04.2013 but the retiral benefits such as gratuity and leave encashment were released to the petitioner only in the month of July, 2014. The prayer of the petitioner is that as without any valid justification, the respondents have delayed the payment of gratuity and leave encashment by more than 1 year and 3 months, therefore, petitioner becomes entitled for the grant of interest keeping in view the law laid down by the Full Bench of this Court in A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468.

In the reply filed by the respondents, the respondents have stated that time consumed in the release of the pensionary benefits was only due to the non-receipt of the no dues certificate from the District Offices and upon the receipt of said no dues certificate, pensionary benefits were released to the petitioner, without any further delay.

Learned counsel for the respondents states that no dues certificate is must for the release of the benefits and as the same was unavailable, the benefits could not be released, which is a valid justification for the delayed payment and therefore, petitioner is not entitled for interest.

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

In the written statement, no objection has been taken with regard to the entitlement of the petitioner for the release of the pensionary benefits of gratuity and leave encashment on the date when the petitioner retired on 30.04.2013. Nothing has been mentioned in the reply or even argued during the course of hearing that there was any impediment in the release of the pensionary benefits which were withheld, by the respondents. The only reason given by the respondents is that no dues certificate, which is essential for the release of the pensionary benefits, was not sent by the District Offices. Issuance of the no dues certificate is the job of the respondents. It is respondents who have to procure the same and it is not the duty of an employee to procure the no dues certificate from each office where he has worked during his service career unless there are dues/material standing against the name of the retiree. Once the respondents knew that the petitioner is going to superannuate on 30.04.2013, no dues certificate should have been procured from the District Offices, where the petitioner had discharged his duties during his service career, if the same was needed before the release of the pensionary benefits. For the non-receipt of the no dues certificate for a period of 1 year and 3 months, petitioner cannot be caused prejudice. Hence, the objection which has been taken by the respondents to justify the delay is rejected.

A Full Bench of this Court in A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468, has held that where there is an unjustified delay in releasing the pensionary benefits, employee will be entitled for interest on the said delayed payments. The reasonable time fixed by the Full Bench of this Court is two months. In the present case, the pensionary benefits were released after a period of 1 year and 3 months. The relevant portion of the 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 from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanbhan 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."

Not only this, a Coordinate Bench of this Court while deciding J.S. Cheema Vs.

State of Haryana and others, 2014 (1) S.C.T. 782, has held that in case an amount for which the employee is entitled for, has been retained and used by the department, the employee will be entitled for the interest on the same. 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."

Learned counsel for the respondents is unable to rebut as to how the case of the petitioner is not covered under the abovesaid two judgments for the grant of interest.

In view of the above, the prayer of the petitioner is allowed.

Petitioner is held entitled for interest @ 9% per annum from the date the amount became due till the same was released by the respondents. Let the amount of interest be calculated by the respondents within a period of two months from the receipt of copy of this order and the amount so calculated by the respondents shall be released to the petitioner within a period of one month thereafter.

The writ petition stands allowed in above terms.