(2015) 03 P&H CK 0412

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6791 of 2013 (O&M)

Punam Gultati — APPELLANT

Vs

State of Punjab and Others — RESPONDENT

Date of Decision : 31-03-2015

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2015) 3 SCT 642

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : R.K. Arora, for the Appellant; Harsimrat Rai, DAG, Advocates for the Respondent

Final Decision : Allowed

Judgement

Jitendra Chauhan, J—By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the order dated 07.03.2013 (Annexure P-6), whereby, the claim of the petitioner regarding interest on the delayed payment of retiral benefits was declined and for issue of a direction to the respondents to grant interest @ 18% p.a., on the delayed payment of retiral benefits. It is contended that the petitioner joined as S.S. Mistress on 18.05.1976 and after attaining the age of superannuation, she retired on 28.08.2007. Prior to the retirement of the petitioner, the Department reduced her pay, whereby the earlier benefit given to her, in view of the order of this Court for stepping up of her pay equivalent to her junior, was withdrawn and recovery was ordered. The petitioner had challenged the action of the department by filing CWP No. 3037 of 2007, which was disposed of on 27.08.2008. In response to the order dated 27.08.2008, the benefit of stepping up of her pay was restored and she had been paid the retiral benefits in the month year 2010 and 2011, after a delay of more than three years.

2. The learned counsel cites Kuldip Rai v. State of Punjab and others in CWP No. 23143 of 2012 of this Court.

3. On the other hand, the learned State counsel, submits that the delay occurred on account of late submission of requisite documents by the petitioner. The retiral benefits have been released to the petitioner in time after the receipt of sanction from the competent authority.

4. Heard.

5. It is not in dispute that after rendering more than 30 years of service, the petitioner retired from the Punjab Education Department on 28.02.2007. Her retiral benefits were released after more than three years. There is nothing on record to substantiate the delay occurred on behalf of the petitioner.

6. In A.S. Randhawa v. State of Punjab and others 1997 (3) SCT 468, the Hon''ble Full Bench of this Court has held as under:--

"The duty of the State to disburse pension immediately on the retirement of an employee has a statutory recognition and it is so enjoined in Rule 9.1; of the Pension Rules (as applicable in the State of Haryana) which is in the following terms:--

"All authorities dealing with applications for pension under these rules should bear in mind that delay in the payment of pensions involves peculiar hardship. It is essential to ensure, therefore, that a Government employee begins to receive his, pension on the date on which it becomes due.

Note:-- In order to prevent cause for complaint on the part of pensioner, it is most important that pension cases should always be given as high a degree of priority as is possible."

The Pension Rules in Punjab also provide that lest there is any delay in disbursing pension to a retiring employee the procedure for the payment thereof and the work of preparation of pension papers should commence two years before the due date of retirement of the employee. Reference in this regard may be made to Rule 9.3 and other related rules contained in Chapter IX of the Punjab Civil Service Rules Vol. 11 as applicable in the State of Punjab.

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 front 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 his 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. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%."

Keeping in view the above facts and circumstances, the present petition is allowed. The respondents are directed to consider the claim of the petitioner in terms of A.S. Randhawa''s case (supra) and grant interest on the delayed payment @ 12% p.a., from the date of entitlement till the date of actual payment. If this amount is not paid within four months from the date of receipt of a certified copy of this order, the same shall carry interest @ 18% p.a., from the date the amount falls due to the petitioner.

