(2019) 05 P&H CK 0206

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12146 Of 2016

Tara Chand Tusamer State Of Haryana And Another

Date of Decision : 22-05-2019

Acts Referred:
Haryana Civil Services (Punishment And Appeal) Rules, 1987 — Section 8

Citation : (2019) 05 P&H CK 0206

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Raman B. Garg, Gitanjali, Charanjit Singh Bakhshi

Final Decision : Disposed Off

Judgement

In the present writ petition, the challenge is to the orders dated 02.02.2015, 16.11.2015 and 10.02.2016 (Annexures P-4, P-6 and P-9) respectively by which the claim of the petitioner for the grant of interest on the delayed release of the payment has been declined on the ground that there were charge-sheets pending against the petitioner and after dropping of the same, the benefits were immediately released to him and therefore, he is not entitled for the interest on the delayed payment of the retiral benefits.

As per the facts mentioned in the writ petition, the petitioner, who was working as Principal in Industrial Training Institute, Butana, Sonepat, retired on 28.02.2013 and on the date of retirement, three charge-sheets were issued to him. Two charge-sheets for minor penalty and one charge-sheet for the major penalty. Thereafter, petitioner had filed a reply to those charge-sheets, but the pensionary benefits were withheld due to the pendency of the charge-sheets, which were issued to the petitioner on the last date of his service career. Keeping in view the reply filed by the petitioner, respondents passed an order on 19.09.2014 (Annexure P-1) dropping one of the three charge-sheets. The second charge-sheet was also dropped vide order dated 18.03.2014 (Annexure P-2) by the respondents, which was issued to the petitioner under Rule 8 of Haryana Civil Services (Punishment and Appeal) Rules, 1987. Even third charge-sheet was dropped vide order dated 25.07.2013 (Annexure P-3).

Counsel for the petitioner states that once the charge-sheets were dropped and petitioner was found innocent for the allegations, which were alleged against him on the last date of his service career, the benefits of interest should be given to him on the delayed release of the pensionary benefits.

In the writ petition, petitioner has stated that leave encashment amounting to Rs.4,26,240/- was paid to him on 11.03.2014. Further, a sum of Rs.7,03,296/- on account of gratuity and an amount of Rs.4,75,741/- on account of gratuity and commutation of pension was released to him on 05.12.2014.

Counsel for the petitioner states that though the petitioner had retired on 28.02.2013, these amounts were not released only due to the fact that he was issued charge-sheets on the last date of his service career by alleging wrong allegations.

Upon notice of motion, reply has been filed by the respondents.

In the reply, it has been again submitted that there were three charge-sheets which were issued to the petitioner on the last date of his service career i.e. 28.02.2013 and after those charge-sheets were concluded, the benefits for which the petitioner was entitled for on his retirement, were released and therefore, as withholding of the pensionary benefits was due to the pendency of the charge-sheets, no interest is payable to the petitioner.

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

Petitioner was issued three charge-sheets alleging various allegations on the last date of his service career i.e. 28.02.2013. After the process of enquiry, respondents found that the allegations were incorrect and charge-sheets were dropped. Once, the allegations alleged against the petitioner were found to be incorrect and could not be substantiated by the respondents, the pendency of the charge-sheets cannot cause prejudice to the petitioner so as to utilize the amount for which he was entitled for immediately upon his retirement. In case the prayer of the respondents is to be accepted, then, the petitioner will be prejudiced without there being any fault on his part. Furthermore, as the respondents made the allegations which they failed to substantiate, the respondents should pay for the harassment and also for the fact that the petitioner was unable to utilize his benefits after his retirement for a period of approximately 1½ years.

As per the settled principle of law settled by a Full Bench of this Court in A.S. Randhawa's case (supra), the amount which has been retained by the respondents and that too without any justifiable reason, the employee will be entitled to interest. The relevant paragraph 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 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 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."

In the case of J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355, a Co-ordinate Bench of this Court 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 J.S. Cheema's case (supra) 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."

The case of the petitioner is squarely covered by the above-said judgments and therefore, he is held entitled for interest @ 9% per annum from the date the amount became due i.e. 01.03.2013 till the same was released by the respondents.

Let the calculation of the amount of interest be done within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.

Present writ petition stands disposed of in the above terms.

