



**CM-10296-CWP-2025 in/and
CWP-28520-2019 1**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(107+250)

**CM-10296-CWP-2025 in/and
CWP-28520-2019
Date of Decision : July 24, 2025**

Baldev Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amrik Singh, Advocate, for the petitioner.

Mr. Saurav Verma, Addl. Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

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As prayed for, the application is allowed.

Annexures P-13 to P-15 are taken on record.

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1. In the present writ petition, the grievance being raised by the petitioner is two folds: firstly, that although he had retired on 30.11.2014 on attaining the age of superannuation yet interest is not being given from date of retirement on delayed grant of retiral benefits and second, that a recovery of sum of Rs.46,254/- has been effected from his retiral benefits after his retirement on the ground that certain benefits of ACP had been wrongly granted to him.



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6. Learned counsel for the respondents further submits that as soon as the said disciplinary proceedings were came to an end, the benefits admissible to the petitioner were released and therefore, the question of seeking the interest on the retiral benefits from the date of retirement is incorrect as the interest on the said amount from the date when the proceedings were dropped upto the actual date of payment along with interest has already been granted to the petitioner.

7. Learned counsel for the respondents further submits that as the Department was contemplating withdrawal of the benefit of the ACP which had been wrongly granted to the petitioner, the recovery of Rs.46,254/- was made, which act on part of the respondents is valid.

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

9. The first question which arise for consideration is whether the petitioner is entitled for the grant of interest on the delayed release of the payment from the date when he retired or from the date on which the departmental proceedings against petitioner were dropped.

10. It may be noticed that the retiral benefits admissible to petitioner were withheld on the basis of the allegations which were alleged against the petitioner by the Department. Once, the Department failed to prove the said allegations, no prejudice could have been caused to the employee.

11. This aspect has been extensively dealt by the Full Bench of this Court in *A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*, wherein it has been held that an employee is entitled for the release of



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his/her pensionary benefits within a period of two months from the date of the retirement otherwise the employee is entitled for the grant of interest to compensate the said employee for the delay occurred in releasing the said benefit to the employee. 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.”

12. Keeping in view the said principle of law, once the allegation on the basis of which departmental proceedings were initiated, consequent to which, the retiral amount admissible to petitioner was withheld, were not proved, the petitioner becomes entitled for the grant of interest from the date when he retired and not from the date the respondents decided to drop the said charge-sheet and therefore, the petitioner is held entitled for interest on the withheld amount from his date of retirement instead of the date when the proceedings against him were dropped @ 6% per annum from the date



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of retirement till the said proceedings were dropped or actual payment made.

13. With regard to the grievance of the petitioner qua recovery of Rs.46,254/- it may be noticed that no recovery can be done from a retired employee. In the present case, there was not even an order passed by the respondents refixing the salary of the petitioner after withdrawing the benefit. Even otherwise, even if a benefit which has been given to the petitioner, and has consequently been withdrawn after a period of five years then also, as per the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(1) S.C.T., 195***, no recovery can be done from a retired employee, especially when there has been no fraud or misrepresentation on the part of the employee.

14. Further, nothing has come on record to show that the petitioner misrepresented or played fraud to get the said benefit which was sought to be withdrawn by respondents. Moreover the recovery was done in anticipation of the said withdrawn, which withdrawal of benefit never took place.

15. The Hon'ble Supreme Court of India in ***Civil Appeal No.7115 of 2010 titled as Thomas Daniel versus State of Kerala and others, decided on 02.05.2022***, has held that where an employee was not at fault with regard to the extension of benefit he/she received and there has been no representation on behalf of the employee concerned to get the emoluments beyond his/her entitlement, the recovery of such benefit extended to an employee cannot be made. The relevant paragraph of the said judgment is



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as under:-

“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”

16. Keeping in view the totality of the circumstances, the recovered amount of Rs.46,254/- be also refunded back to the petitioner within a period of eight weeks from the receipt of copy of this order.

17. The present writ petition is disposed of in above terms.

July 24, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No