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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-20845-2020 (O&M)
Date of Decision: 11.01.2023

Harpreet Kaur

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Ms. Lavanya Paul, DAG, Punjab.

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JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of Certiorari quashing of order dated 04.11.2020 (Annexure P-5) by which the interest on the delayed payment of retiral benefits has been declined and also for issuance of writ in the nature of Mandamus directing the respondents to pay interest @ 18% per annum on the delayed payments of retiral benefits including gratuity, leave encashment, GP fund and GIS amount.

Learned counsel for the petitioner has submitted that the present is a second round of litigation filed by the petitioner who retired as a Music Teacher from the Department of Education in the State of Punjab. He earlier filed civil writ petition No. 5652 of 2020 seeking interest on the delayed payments and the same was disposed of by this Court on

02.03.2020 vide Annexure P-4 with a direction to respondent No.2-State to pass an appropriate speaking order on the legal notice dated 23.01.2020 within a period of three months and it was further directed that in case it is found that the petitioner is entitled to any monetary benefits after the decision of the said representation, then the same should be paid to her within a period of three months, thereafter. Thereafter, no such order was passed within a period of three months and therefore, the petitioner was constrained to file a contempt petition before this Court and during the proceedings of the contempt against the respondents, a speaking order was passed dated 04.11.2020 and therefore, the contempt petition was dismissed and liberty was granted to the petitioner to challenge the aforesaid speaking order. In this way, impugned order Annenxure P-5 has been passed after a period of 8 months from the date of earlier order passed by this Court whereby directions were issued for deciding of the legal notice within a period of three months.

Learned counsel for the petitioner further submitted that now the present petition has been filed seeking quashing of the aforesaid impugned order Annexure P-5 dated 04.11.2020 whereby the interest on the delayed payments has been denied by the DPI, Secondary Education, Punjab. He submitted that a bare perusal of the aforesaid order would show that although at the top of the order it has been stated to be a speaking order but in fact it is absolutely a cryptic and non-speaking order and therefore, it cannot be termed as a speaking order at all. To substantiate his aforesaid argument, he submitted that a reply has been filed by respondent No.3 who is the Head Mistress of the Government High School, Landran and while referring to para No.3 of the reply filed by her it has been so stated that so far as DCRG and the leave encashment are concerned, the same have been paid to the petitioner on 23.03.2018 and the petitioner had retired on 31.10.2017 and therefore, the petitioner does not wish to press interest on the aforesaid two amounts. He further submitted that so far as the remaining two amounts of GPF to the tune of Rs. 14,62,592/- and GIS to the tune of Rs. 36,112/- is concerned, as per the table shown, the same has been paid on 07.05.2019 and 21.01.2020 after a lapse of unreasonable time after the date of retirement for which the petitioner was entitled for interest on the delayed payments. He also submitted that in the remarks column of the table, the reason which has been given is that the petitioner had not submitted the required documents i.e Self Declaration Certificate to respondent No.3 who was the Drawing and Disbursing Officer and due to this reason, there was delay in sending the bills to the Treasury Office i.e. 29.08.2018 and so far as GIS is concerned, the employee refused to sign the receipt of GIS bill for the final payment and which caused the delay.

Learned counsel for the petitioner submitted that the reasoning given in the remarks column is totally false and against the record itself. He submitted that a reply has been given by the Head Mistress, Government High School, Landran vide Annexure P-2 to the legal notice and in para No.5 it has been so stated by the Head Mistress herself that for the payment of GPF of the petitioner, Bill No.28 dated 29.08.2018 vide token No.18212, amounting to Rs. 14,62,592/- was sent to the Treasury and an objection was raised by the Treasury upon this bill and thereafter, this bill was deposited after removing the objection which was amounting to Rs. 14,62,592/-. Due to lapsing of this cheque, the Treasury had asked to deposit this bill in next financial year 2019-2020 and in the financial year 2019-2020 vide bill No.4 dated 29.04.2019, Token No.2686, Voucher No.29 dated 07.05.2019, the amount of Rs. 14,62,592/- has been deposited in the account of the employee. Para No.5 of Annexure P-2 is reproduced as under:-

> *"5. Smt. Harpreet Kaur, Music Mistress, retired on 31.07.2017 from GHS Landran. For the payment of her GPF, Bill No.28 dated 29.08.2018 vide Token No.18212 amounting to Rs. 14,62,592/- was sent to the Treasury. The objection was raised by the Treasury upon this bill and thereafter this Bill No.28 dated 01.11.2018, Token No.28908 was deposited after removing the objection which was amounting to Rs. 14,62,592/-. Due to lapsing of this cheque, the Treasury asked to deposit this bill in next financial year 2019-20 and in the financial year 2019-20 vide bill No.4 dated 29.04.2019, Token No.2686, Voucher No.29 dated 07.05.2019, the amount of Rs. 14,62,592/- has been deposited in the account of the employee".*

Learned counsel submitted that it is clear from the aforesaid reply to legal notice filed by the Head Mistress herself that bill No.28 was initiated on 29.08.2018 and therefore, now in the remarks column of the affidavit where she has stated that the bill could not be deposited because the Self Declaration Certificate was not given by the petitioner is totally false and contrary to her own statement and therefore, it amounts to filing of a false affidavit before this Court. He further submitted that this factual position has been so stated by the petitioner in para No.7 of the petition and the same has been so admitted in the reply filed by the State as a matter of record and no clarification has been given with regard to the same. He has therefore submitted that once the GPF bill was initiated by the Drawing Disbursing Officer i.e. Head Mistress on 29.08.2018, there was no occasion for the aforesaid respondent to have now taken up a fresh reason in the remarks column that the petitioner did not submit the Self Declaration Certificate whereas as per her own reply to legal notice, she had stated that bill had lapsed. He submitted that the falsehood of aforesaid would also apply to the next payment that was pertaining to GIS whereby it has been so stated that the petitioner refused to sign the receipt of final payment of GIS. Such a remark was highly improbable and un-natural as no person would refuse to sign the receipt depriving his own rights. He submitted that in view of the aforesaid facts and circumstances and especially considering the fact that the petitioner had to approach this Court for the third time by filing two writ petitions and one contempt petition, she may be granted interest on the delayed payment of GPF and GIS. He has relied upon a Full Bench judgment of this Court in ***A.S. Randhawa Versus State of Punjab and others, 1997(3) SCT 468 (F.B.)***.

On the other hand, Ms. Lavanya Paul, learned DAG, Punjab has submitted that it is correct that as per the affidavit filed by the Head Mistress in the remarks column it has been so stated that because the petitioner did not give the Self Declaration Certificate that the bill could not be sent and which caused the delay and therefore it is only because of this reason that there was a delay in disbursement of GPF and so far as the GIS is concerned, the petitioner did not sign the relevant documents and therefore, there was a delay.

I have heard the learned counsel for the parties.

The only prayer in the present petition is for grant of interest on the delayed payments of retiral benefits and the petitioner has also impugned the order Annexure P-5 dated 04.11.2020 which has been passed by the Director Public Instruction, Secondary Education, Punjab. During the course of arguments, the learned counsel for the petitioner has submitted that so far as interest on DCRG and Leave encashment is concerned, he is not pressing the same since the same were paid on 23.03.2018 and the petitioner had retired on 31.10.2017 but he has prayed for grant of interest on the other two delayed payments i.e. GPF and GIS. A perusal of the affidavit which has been filed by the Head Mistress wherein in a tabulated form the reasons have been mentioned for the delay of the payments of GPF and GIS. In the remarks column pertaining to GPF it has been so stated that since the petitioner did not submit the Self Declaration Certificate, there was a delay in sending the bill and in the column pertaining to GIS it has been so stated that the petitioner did not sign the receipt of the GIS bill for the final payment. However, a perusal of the reply to the legal notice filed by the Head Mistress vide Annexure P-2 would show that bill No.28 was submitted on 29.08.2018 and thereafter, this bill was deposited after removing the objections on

01.11.2018. Due to lapsing of this cheque, the Treasury asked to deposit the bill in the next financial year. In this way, even as per the reply to the legal notice, the delay was caused not because petitioner did not submit the Self Declaration Certificate but because the cheque had lapsed in that financial year and fresh cheque was issued in the next financial year and therefore, it is clear that the reasoning given in the remarks column was contrary to the reply filed by the Head Mistress vide Annexure P-2 and therefore, the remarks column appears to be against the record.

Now coming to the order passing by the DPI in pursuance of the order passed by this Court, the DPI has only referred to what information is received from the Head Mistress and on the basis of the same, the impugned order dated 04.11.2020 has been passed. A perusal of the aforesaid order would show that although it reflects at the top of the order that it is a speaking order but in fact it is a cryptic order. It is clear that the DPI has not applied his mind and has only affirmed the inputs given by the Head Mistress and therefore, the said order cannot be said to be a speaking order or a reasoned order. The net result of the same was that delay has been caused in disbursement of the retiral benefits pertaining to GPF to the petitioner for no fault of the petitioner. So far as the amount pertaining to GIS is concerned, it has been so mentioned in the remarks column that the petitioner refused to sign the receipt of the GIS. Such a reasoning also appears to be totally unreasonable, improbable and un-natural. Apart from the above, when the remarks pertaining to GPF are found to be not appropriate being false, this Court cannot rely upon the remarks which have been given in the column pertaining to GIS because *falsus in uno, falsus in omnibus.*

In view of the above, the present petition is partly allowed. The order dated 04.11.2020 (Annexure P-5) is hereby set aside and quashed. The petitioner shall be entitled for interest @ 6% per annum pertaining to the amount of GPF and GIS from the date of accrual till the date of disbursement. Since the petitioner was constrained to file three rounds of litigation and the order passed by the DPI is not a reasoned order but a cryptic order, the petitioner shall also be entitled for costs of Rs. 20,000/-. The aforesaid interest amount and the costs of Rs. 20,000/- shall be paid to the petitioner within a period of three months from today.

11.01.2023 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No