

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

CWP-15605-2011

Date of decision: October 20, 2015

SUNIL ROY SHARMA

....Petitioner

Versus

STATE OF PUNJAB AND ORS

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Ashish Sharma, Addl. A.G. Punjab.

Mr. Arihant Goyal, Advocate
for respondent No.4.

Mr. G.S. Sidhu, Advocate
for respondent No.5.

LISA GILL, J.(ORAL)

Prayer in this writ petition is for revision of pay and pensionary benefits due to the petitioner by counting service rendered by him with respondent No.5. Petitioner retired from service on 31st March, 2001 while working as Science Master with respondent No.4 against an aided post.

Learned counsel for the State submits that the matter has since been resolved in November, 2013 and entire benefits due to the petitioner have been released on 5th March, 2014.

Substantial relief, as claimed in the writ petition has been afforded to the petitioner, however, learned counsel for the petitioner submits that in view of the admitted delay on the part of the respondents, interest on delayed payment be granted.

It is not in dispute that the petitioner worked as a Science Master from 13.07.1967 to 15.05.1979 with respondent No.5-Khalsa Higher

Secondary School, which is a private government aided school. Petitioner duly submitted relevant certificate reflecting this service. Petitioner joined service of respondent No.4 on 16th May, 1979 and served with the said Institution till his retirement on 31st March, 2001. He was granted pension on the basis of service rendered by him with respondent No.4 (Annexure P2). It is averred that benefit of service rendered from 31.07.1967 to 15.07.1979 be counted while calculating his retiral dues. Though an averment has been made in the writ petition that petitioner submitted various representations for necessary relief, however, representation dated 9th December, 2010 which is annexed as Annexure P-3, does not show that the petitioner had ever raised any such objection at any earlier point of time. In fact such representation was made pursuant to issuance of memo/order dated 31st August, 2010 (Annexure P4) whereby decision was taken to give benefit to all retirees of Privately Managed Recognized Aided Schools in the State of Punjab from the initial date of appointment. Vide communication dated 14th February, 2011 (Annexure P-5) petitioner was directed to get his case for revision of pension prepared after contacting the Deputy Education Officer(SE), Mansa and Principal of Gandhi Secondary School, Mansa-respondent No.4. Letter dated 15th March, 2011 for sending the petitioner's service record was sent by respondent No.4 to respondent No.5 for verification.

Learned counsel for respondent No.4 submits that record sought for was not forthcoming from respondent No.5. Therefore, respondent No.4 was not in a position to forward the matter to the concerned authorities. Necessary record was received in the year 2013 though no date or period is forthcoming. It is on receipt of the said record, petitioner's case was immediately forwarded to respondent No.2 on 29.11.2013.

Per contra learned counsel for respondent No.5 submits that registered letter dated 25.11.2011 (Annexure R5/1) was addressed to respondent No.1 with copies to respondents No.2 and 3 wherein photocopies of the entire record were attached. Responsibility for the delay if any rests upon respondent No.4 who was to prepare the case and forward it to the State.

Learned counsel for the State submits that the record was received by them on 29.11.2013 and sanction was accorded on the same date and the entire amount was released in the month of March, 2014. Therefore, State is not responsible for the delay.

Perusal of the facts reveal that petitioner is claiming benefit flowing from order dated 31st August, 2010 (Annexure P4). He staked his claim for the first time on the basis of Annexure P-4 dated 31.08.2010 in November, 2010 as reflected in his representation (Annexure P-3). Therefore, there can be no question of interest on delayed payment from 2001 to 2010 in any case. Facts and circumstances on record clearly indicate that there is no shortcoming on the part of the official respondents who acted with promptitude and processed the petitioner's case immediately on receipt of requisite documents on 29.11.2013. Delay has occurred due to the inaction of respondents No.4 and 5. Respondent No.4 has tried to take a stand that on account of absence of original record it could not forward the petitioner's case. Photocopies of the petitioner's service record were sent in the year 2011. However, respondent No.5 also faulted in not forwarding the entire relevant record including the service book.

It is relevant to note at this juncture that after issuance of notice of motion on 25.08.2011 in this case, appearance was put on behalf of respondents No.4 and 5 on 14.10.2011. Registered letter dated 25.11.2011,

Annexure R-1/1 by respondent No.5 to respondent No.4 was sent. Written statement on behalf of respondent No.4 was taken on record on 12.01.2012 wherein a specific stand is taken that record is not forthcoming from respondent No.5.

Respondents No.4 and 5 were directed to come present in Court vide order dated 17.01.2013. Reply on behalf of respondent No.5 was taken on record on 20.08.2013 subject to deposit of cost of Rs.10,000/-. It is thereafter that the ball was set rolling and necessary action was taken. No serious efforts were made by respondent No.4 to obtain the necessary record from respondent No.5, neither respondent No.5, took requisite steps for forwarding the said record to facilitate matters. Present is a classic case of one institution trying to shift the blame on the other without taking requisite steps themselves.

Both the said respondents are, therefore, equally liable to pay interest for the delay. However, interest shall be payable from 1st April, 2011 till the date of payment at the rate of 7.5% per annum which shall be released within two months from the receipt of certified copy of this order.

Writ petition is accordingly disposed of.

October 20, 2015
m. sharma

(LISA GILL)
JUDGE