

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

**CWP No.26225 of 2014
Decided on : 06.10.2015**

Khalsa College of Education

... Petitioner

Versus

Panjab University, Chandigarh

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Arun Bakshi, Advocate
for the respondent.

G.S. Sandhawalia , J. (Oral)

The present writ petition has been filed claiming interest for the period from 04.06.2010 to 09.05.2014 for which the University had retained a sum of ₹ 16,78,333/- which had been collected from the petitioner-college and which had been denied by order dated 20.11.2014 (Annexure P-11).

It is not disputed that the amount which was paid by the petitioner-college was on account of a penalty of ₹ 50,000/- per month levied for not appointing a regular Principal. Apparently, under the threat of loosing its affiliation from the University, the petitioner-college was forced to deposit the said amount. The said action of the University was challenged by filing **CWP No.14223 of 2010** and **CWP No.17018 of 2010** titled as '**Khalsa College of Education Vs. Panjab University**'. This Court while deciding a

bunch of writ petitions on 30.08.2013 (Annexure P-2), quashed the decision of the University by holding that financial penalty was not provided and the University could have resorted to other regulations against privately managed colleges in the absence of a regular Principal. Therefore, the penalty levied was set aside. The said judgment was further upheld in **LPA No.373 of 2014** titled as '**Panjab University Vs. Khalsa College of Education**' decided on **07.03.2014**.

The petitioner, thereafter, filed various representations for the refund of the said amount alongwith interest on 08.11.2013, 20.11.2013 and 27.11.2013 (Annexures P-4 and P-5). Thereafter, a legal notice (Annexure P-6) was also served.

It was then constrained to approach this Court in CWP No.28084 of 2013 for the refund of the amount alongwith interest. This Court disposed of the same at the initial stage (Annexure P-7) directing the University to look into the matter and consider the grievance.

In such circumstances, after a period of 8 months, the cheque dated 30.04.2013 for a sum of Rs.16,78,333/- was paid to the petitioner. The petitioner, thereafter, again raised a demand for interest vide representation dated 14.05.2014 (Annexure P-9) and also filed CWP No.13749 of 2014 which was again disposed of at the initial stage on 17.07.2014 (Annexure P-10) directing the

University to look into the issue and decide the same. In case, the benefit was to be given the amount was to be paid to the college. Now, vide impugned order dated 20.11.2014, the interest element has been denied on the ground that no such order was passed by this Court for granting the necessary relief, while quashing the penalty order.

In the written statement filed by the University the defence taken is that there was no prayer for interest in the earlier writ petitions in which the issue had been decided on 30.08.2013. The above sequence of events would go on to show that the petitioner-college was constrained to part with a huge amount of money, on account of the action of the University which has not been found to be legal and without any authority of law. The petitioner is entitled for interest amount on the principal which it has been deprived of without any authority of law and, therefore, the demand for interest is well justified and has been rejected on totally tenable grounds.

Through the writ petition the action of penalty was under challenge and the cause of action has arisen in view of the decision against the University on 30.08.2013. The demand for principle amount alongwith interest was asked for after prolonged correspondence and on direction by this Court the University refunded the amount without the benefit of interest. Thereafter,

the college has again claimed the interest and validly so. Once the demand was without any justification, the petitioner is entitled for the amount retained without any authority of law. The amount is also substantial and the period is almost of 4 years. It is thus not justified on the part of the University to deny the interest.

For the above proposition, reliance can be placed on a decision of a Coordinate Bench of this Court in **CWP No.18047 of 2012** titled as '**Kamla Bhardwaj Vs. Chandigarh Administration and others**' decided on **23.04.2015**, wherein it was observed:-

“Be that as it may, the fact remains that the money which was owed to the petitioner were used by respondents No. 7 and 8. Normally a period of six months may be considered reasonable for the respondents to release amounts due on superannuation. Interest is essentially rent paid for the use of money. In some cases, it may also include a component of damages (where for instance monies owed are wrongfully retained) but even if there is no wrongful delay the component of payment for use of money survives. This has also been observed by this Court in CWP No. 6291 of 2000, S.K. Punchhi (Surinder Kumar Punchhi) vs. The State of Haryana and another decided on 24.9.2013 and many other judgments.

Consequently, the petitioner would be entitled to interest from 1.5.2011 @ 6% per annum on the amount of leave encashment, commutation of pension arrears and gratuity till the date(s) on which these amounts were released to the petitioner. The respondents No. 7 and 8 are directed to calculate these amounts and release it to the petitioner within a

period of three months from the date of receipt of certified copy of this order, failing which the petitioner would be entitled to interest @ 8% per annum instead of 6%.

Allowed in the above terms.”

Resultantly, the respondent-University is directed to pay interest @ 8% per annum from the period 04.06.2010 to 30.04.2014. The said amount be paid within a period of 2 months from the receipt of the certified copy of this order. In case the amount is not paid within the said period, the interest element would go up to 10% per annum.

With the abovesaid observations, the present writ petition is allowed.

OCTOBER 06, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE