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

CWP No.2914 of 2014

Date of Decision:02/09/2015

Lakhmi Chand …Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others … Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. P.S. Poonia, Advocate for the respondents.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest.

DEEPAK SIBAL, J. (Oral)

The petitioner served the respondent-Uttar Haryana Bijli Vitran Nigam Limited (hereinafter referred to as "the Nigam") as a work store mate on daily wage basis w.e.f. 1.1.1980 till 21.4.1987 on which date he was offered appointment on the same post on work charge basis which he accepted. In the year 1991, the services of the petitioner were regularized and thereafter he retired from service on 30.4.2005.

After superannuation the petitioner represented to the respondent to count the service rendered by him on daily wage basis as also on work charge basis for the purpose of qualifying service towards pension and other retiral benefits. On receiving no positive response, he knocked the doors of this Court through CWP No.16548 of 2009; Lakhmi Chand v. The M.D./Secretary, H.V.P.N. Ltd. and others. This writ petition was disposed of on 15.11.2010 by passing following directions:

"In view of the above, this petition is disposed of with a direction to the respondents to count the service rendered by the petitioner on

> *daily wage and work charge basis towards the qualifying service for pensionary/retiral benefits. Let the retiral/pensionary benefits be determined and released accordingly within three months from the date a certified copy of this order is received by the competent authority."*

In compliance with the direction as reproduced above, the service rendered by the petitioner on daily wage basis as also on work charge basis was counted towards qualifying service for the purpose of pensionary/retiral benefits but since for the above said period the petitioner was a member of the Employees Provident Fund Scheme (hereinafter referred to as the "EPF Scheme"), the amount of employer's share for that period had to be refunded by him. The principal of that amount of the EPF fund has been refunded by the petitioner which is not disputed. However, on that amount, the respondent-Nigam had charged interest at the rate ranging from 9.5% to 12%. This rate of interest that has been charged from the petitioner is challenged by him through the present writ petition.

While relying on a judgment of this Court in CWP No.1518 of 2013; Dharam Pal v. Managing Director, UHBVNL, Panchkula and others; decided on 29.10.2013, it is urged on behalf of the petitioner that only a reasonable rate of interest i.e. 6% per annum could have been charged from him and not the high rate of interest ranging from 9.5% to 12% as charged by the respondent-Nigam.

The Relevant portion of the judgment in *Dharam Pal's* case (supra) wherein while considering the same issue, this Court has issued directions to the respondent-Nigam to charge simple interest at the rate of 6% and not the high rate of interest as had been charged in this case as well is as under:

> *"The grievance of the petitioner is that deduction of interest of more*

than 6% on the part of the respondents is illegal and not sustainable in the eyes of law.

It is an admitted fact that similarly circumstanced persons like Joginder Pal, Lineman who is also retired Lineman like the petitioner has been subjected to deduction at the rate of 6% per annum on the EPF account refunded. The petitioner, under Article 14 of the Constitution of India, is also entitled to the similar treatment. The action of the respondents in deducting higher rate of interest from 8% to 13% on amount of GPF is held to be illegal and it is ordered that the said rate will be 6% per annum and would not be compounded. The petitioner will be entitled to the refund of the excess amount of interest to more than 6% which was wrongly charged from the petitioner. The needful be done within a period of three months after the receipt of a certified copy of the order.

Allowed in the aforesaid terms."

I find that *Dharam Pal's* case (supra) fully covers the case of the petitioner in his favour.

In view of the above, the present writ petition is allowed. The respondent-Nigam is directed to charge simple interest @ 6% per annum on its share in the EPF fund refunded by the petitioner for the period that he had served the respondent-Nigam on daily wage basis and work charge basis for considering this service towards qualifying service for the purpose of pension. The amount be re-calculated and the excess amount as already deducted by the respondent-Nigam be refunded to the petitioner and on this amount the petitioner is held entitled to simple interest at the rate of 6% per annum. The needful be done within a period of three months from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

02.09.2015
rajeev