

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

345

CWP No.13999 of 1997

DATE OF DECISION: 09.11.2016.

Jagan Nath

....Petitioner.

Versus

HSEB and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vijay Kumar, Advocate for
Mr. Sanjay Mittal, Advocate for the petitioner.

None for respondents No.1 to 3.

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

KULDIP SINGH, J.(Oral)

From the pleadings, it comes out that the petitioner was work charged employee of the respondent Department. Later on, his services were regularized and his work charged service period was treated as regular employment. Earlier the petitioner was a member of the Employees Provident Fund Scheme. On regularization of the services, when he was given an option as to whether he was interested in switching over from Employees Provident Fund Scheme to Pension Scheme, he opted for Pension Scheme. For that purpose he deposited the entire amount of employer's contribution alongwith interest thereon in lumpsum for crediting to the account of the Board. It is stated that the petitioner did not withdraw the amount from the Regional Employees Provident Commissioner, Faridabad and did not deposit the amount in the account of the respondent. The petitioner after his retirement withdrew the amount on 02.03.1995 and he deposited this amount with respondents in December, 1995. The

respondent claimed interest from 01.09.1993 to 03.12.1995 and deducted a sum of Rs.32,732/80 paisa as interest from the gratuity of the petitioner. The petitioner challenged the said order (Annexure P-2) dated 16.12.1996. It is claimed that he previously approached this Court by way of filing a CWP-12320 of 1996 in this Hon'ble Court which was disposed of by the Division Bench of this Court on 16.08.1996 with a direction to the respondents to make the payment of the retirement benefits to the petitioner within three months, if he is entitled for the same with the following directions:-

“We, therefore, dispense of this writ petition by direction that within three months of the submission of the certified copy of this order together with a copy of the writ petition, the respondents should make payment of the post retirement benefits due to him. If, for good and sufficient reasons to be recorded in writing, the respondents come to the conclusion that benefits claimed by the petitioner or anyone of them is not admissible to him, then a reasoned order should be communicated to the petitioner within this period of three months.”

I have heard learned counsel representing the petitioner and learned counsel representing respondent No.4.

Since none has appeared on behalf of respondents No.1 to 3, therefore, the case of the respondents No.1 to 3 has been considered. In this case, when the services of the petitioner were regularized and he exercised his option to switch over from Employees Provident Fund Scheme to Pension scheme, he was required to deposit employees contribution along with interest with respondents No.1 to 3. He was required to deposit the same

deposited the same on 03.12.1995 with respondent.

Undoubtedly, for the period from 02.03.1995 to 03.12.1995, the petitioner is liable to pay the interest. The claim of the petitioner is that the Provident Fund Commissioner, had also paid the interest and the entire amount alongwith interest paid to him on 02.03.1995. Therefore, charging of interest from 01.09.1993 to 02.03.1995, would amount to charging of double interest by respondent. On behalf of the Provident Fund Commissioner, it is not denied that the amount of employer's share was released to the petitioner alongwith interest payable on the date of release of the money. Therefore, if for the period from 01.09.1993 to 02.03.1995 double interest cannot be charged. Consequently, the impugned order is set aside. It is held that the petitioner is not liable to pay the interest on the employer's share from 01.09.1993 to 02.03.1995. As regards the interest payable from 02.03.1995 to 03.12.1995, the respondent shall calculate the interest for the said period and after calculating same the remaining amount shall be refunded to the petitioner within two months from the date of receipt of the copy of the order.

Accordingly, the petition is allowed partly.

(KULDIP SINGH)
JUDGE

09.11.2016.

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Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No