

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

**CWP No. 2606 OF 2009
DECIDED ON: DECEMBER 15, 2017**

INDER SINGH KADAYAN

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sunil Kumar Bhardwaj, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

Mr. Arun Sharma, Advocate for
Mr. Kulbir Dalal, Advocate,
for respondent No.3.

JASPAL SINGH, J.

Through instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ of mandamus directing the respondents to perform its statutory duties towards granting the interest over the delayed payment of retiral benefits in view of instructions dated 20.02.2002 (Annexure P-8) and/or further to decide representation dated 21.11.2008.

2. Undisputably, the petitioner stood retired on 31.03.2001 on attaining the age of superannuation from Rohtak Primary Land Development Bank, Rohtak as Land Valuation Officer. However, it was stipulated in the

retirement order that his retiral dues will be released after the decision of surcharge proceedings. After his retirement, surcharge proceedings under Section 101 of Haryana Cooperative Societies Act, 1984 have been initiated on the directions of respondent No.3. The petitioner then submitted a request to respondent No.3 to quash the action of the respondent for withholding retiral benefits. Ultimately, the petitioner was constrained to institute CWP No.7376-2007, which was disposed of by this Court vide order dated 12.09.2008 clearly observing that as the surcharge proceedings were pending for the last more than 27 years for the recovery of Rs.40,000/- against 6 persons cannot constitute a valid base for refusing the release of retiral benefits. Accordingly, writ petition was allowed and respondents were directed to release all the retiral benefits to the petitioner within two months.

3. Now, the question which survives for determination is whether in the given circumstances, petitioner is entitled to the interest on the delayed payments of retiral benefits?

4. Admittedly, petitioner preferred CWP No.7376 of 2007, titled as ***“Inder Singh Kadiyan v. Joint Secretary to Govt. Haryana, Cooperation Department and others”***, which was disposed of on 12.09.2008 (Annexure P-4). While disposing of said petition, there is only direction to the respondents to release all the retiral benefits of the petitioner within a period of two months from the date of receipt of certified copy of this order and order dated 12.09.2008 is absolutely silent about the grant of any interest. The said order was passed in the year 2008 and subsequent thereto, the benefits would have been released. It was only thereafter, instant petition has been preferred. In

the aforesaid situation, Section 34(2) of the Code of Civil Procedure, 1908 is attracted which deals with the grant of interest. Being relevant it would be appropriate to reflect it, which reads as under:-

34(2) Where such a decree is silent with respect to the payment of further interest on such principal sum from the date of the decree to the date of payment or other earlier date, the court shall be deemed to have refused such interest, and a separate suit there for shall not lie.”

4. A glance at the aforesaid provisions makes it clear that when the decree is silent in respect of the payment of interest, the Court shall be deemed to have refused such interest and separate suit does not lie. In the instant case also since no interest has been granted while disposing of CWP No. 7376 of 2007 ***“Inder Singh Kadiyan vs. Joint Secretary to Govt. Haryana, Cooperation Department and others”***, vide order dated 12.09.2008, interest is deemed to have been declined or not granted by the Division Bench.

5. Thus, in the fact situation, petitioner is not entitled to any sort of interest on the alleged delayed payment particularly when order dated 12.09.2008 stands complied with. Dismissed.

DECEMBER 15, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes***

Whether reportable ***Yes/No***