

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 25091 of 2015
Date of Decision: March 16, 2017

Jai Bhagwan

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.P. Chahar, Advocate,
for the petitioner.

Dr. Sushil Gautam, DAG, Haryana.

P.B. Bajanthri, J. (Oral)

1. Short question for consideration in the present writ petition is whether the petitioner is entitled for interest on arrears of pay or not for the period from 13.05.2012 to 21.02.2014?

2. The petitioner's technical pay was not granted even though it was due to the petitioner as on 01.04.1993. The petitioner sent a legal notice for which there was no response from the official respondents. Consequently, he was compelled to file a writ petition before this Court. This Court on 13.02.2012 disposed of CWP No. 304 of 2011 directing the respondents to disburse the arrears of pay within a period of three months from the date of receipt of certified copy of the order. The respondents were required to settle the petitioner's arrears of pay on or before 13.05.2012, however, it was not settled. On the other hand, respondents have preferred a review petition before this Court and review petition was disposed of on

13.09.2013. Thereafter, COCP No. 354 of 2014 was filed. During the pendency of COCP, the respondents have settled the petitioner's claim of arrears of pay on 21.02.2014. In this background, whether the petitioner is entitled for interest on arrears of pay from 13.05.2012 to 21.02.2014 or not.

3. Learned counsel for the petitioner submitted that despite there is a specific direction of this Court for payment of arrears of pay on 13.02.2012 to pay within a period of three months, the respondents have not settled the arrears of pay. On the contrary, they have suffered an order in review and they were compelled the petitioner to file COCP and during pendency of COCP, the respondents have settled the petitioner's arrears of pay on 21.02.2014. Thus, there is a lapse on the part of the official respondents. Consequently, the petitioner is entitled for interest on arrears of pay.

4. Per contra, learned State counsel submitted that interest can be granted by the official respondents only if there is a delay in settlement of the retiral benefits and not for arrears of pay etc.

5. Heard learned counsel for the parties.

6. Having regard to the conduct of the official respondent, it is evident that the petitioner was entitled to technical pay w.e.f. 01.4.1993, the same was not paid despite this Court's directions to the respondents on 13.02.2012 while granting three months' time. The respondents preferred review application in which they have suffered an order to the extent that the review application has become infructuous. Even thereafter, the official respondents did not settle the petitioner's claim. Consequently, petitioner was compelled to file COCP and while facing COCP proceedings the respondents have settled the petitioner's claim on 21.02.2014.

7. Having regard to these facts and circumstances and conduct of the official respondents in extending arrears of pay which is due to the petitioner on 01.04.1993, the respondents are liable to pay interest @ 9% per annum on arrears of pay paid on 21.02.2014 for the period from 13.05.2012 to 21.02.2014. The same shall be paid by the officials respondents within a period of 2 months from today. If interest @ 9% per annum is not paid within the stipulated period of 2 months, the respondents are liable to pay costs of Rs. 50,000/- to the petitioner. Supreme Court in the case of *Vijay L. Malhotra vs. State of U.P. and others* reported in (2001) 9 SCC 687 has held that if there is a delay in settlement of retiral benefits as well as arrears of pay, if any, even on that count, an employee is entitled for interest @ 18% per annum.

In view of these facts and circumstances, the instant writ petition is disposed of with the above observations.

March 16, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking / reasoned : Yes

Whether reportable : No