

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 240

Civil Writ Petition No.4486 of 2015 (O & M)
Date of Decision: *December 05, 2017*

Anant Ram & another

..... PETITIONERS

VERSUS

State of Haryana & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. V.B. Aggarwal, Advocate, for the petitioners.

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

Mr. A.S. Virk, Advocate, for respondent Nos.2 and 3.

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Jaspal Singh, J

Through the instant writ petition preferred under Section 226/227 of the Constitution of India, petitioner has sought for issuance of a writ in the nature of certiorari, quashing orders dated July 31, 2014 (Annexures P-10 and P-11) passed by respondent No.3 – Director, National Institute of Technology, Kurukshetra and further to issue a writ in the nature of Mandamus, directing respondent No.2 – National Institute of Technology, Kurukshetra to pay interest on the delayed payment till the date of payment to him.

Petitioner No.1 and husband of petitioner No.2 served respondent No.2 – National Institute of Technology, Kurukshetra and retired

on superannuation on March 31, 2005 and September 31, 2004, respectively. Petitioner No.2 expired on October 17, 2006. Earlier, petitioner No.1 and husband of petitioner No.2 preferred a writ petition viz. CWP No.16487 of 2001 'Kura Ram & another vs. State of Haryana & others' seeking benefit of Higher Standard Pay Scale, in pursuance of Instructions dated February 08, 1994 issued by the respondent – State, on the cadre of Lab Assistants (Class – C post). The said petition was allowed by this Court vide judgment dated February 20, 2003 holding that the matter is squarely covered by judgment delivered in 'Suraj Bhan & others vs. State of Haryana' 2001(1) RSJ 205. Aggrieved by the aforesaid decision of this Court, respondent No.2 went up in SLP (C) No.13327 of 2005 which was disposed of vide judgment dated April 11, 2011 by the Hon'ble Supreme Court of India with a modification that promotes who were senior to the direct recruits would not be paid less salary or allowances than the direct recruits. Some of the retiral benefits were not paid by the Department. Consequently, they preferred yet another petition viz. CWP No.3178 of 2012 titled 'Anant Ram & another vs. State of Haryana & another' which was disposed of this Court vide judgment dated March 14, 2014 with liberty to the petitioners to move a representation to the respondents for payment of interest and respondents were also directed to decide the claim of petitioners with regard to interest. Pursuant thereto, petitioners submitted representation dated April 25, 2014 to respondent No.2 regarding interest on retiral benefits. The said representation was rejected by respondent No.3 vide impugned orders dated July 31, 2014 (Annexure P-10 & P-11) on the ground that Hon'ble Supreme Court of India did not order payment of interest upon the arrears.

The only question for determination in this writ petition is whether petitioners are entitled to receive interest on the delayed payment of arrears of retiral dues on account of Higher Standard Pay Scale.

Admittedly, petitioner preferred CWP No.16487 of 2001 which was allowed vide judgment dated February 20, 2015 in the light of decision rendered by the Hon'ble Apex Court in the case of *Suraj Bhan (supra)*. Respondent filed an SLP(C) No.13327 of 2005 wherein High Court judgment was modified to the extent that promotes who were senior to the direct recruits would not be paid less salary or allowances than the direct recruits. Subsequently, petitioners preferred CWP No.3178 of 2012 which was disposed of vide judgment dated March 14, 2014 with liberty to them to file a representation for payment of interest. The representation of petitioners was rejected by the respondents vide impugned order since there was no delay in making the payment of arrears which was paid in compliance of decision rendered by the Hon'ble Apex Court rendered in aforesaid SLP. Even the Hon'ble Supreme Court in its decision dated April 11, 2001 did not touch the issue of interest.

In the aforesaid situation, Section 34(2) CPC 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.”

A glance at the aforesaid provisions makes it clear that when

deemed to have refused such interest and separate suit does not lie. In the instant case also, since no interest has been granted while allowing CWP No.16487 of 2001 vide judgment dated February 20, 2003 and while disposing of SLP(C) No.13327 of 2005 vide judgment dated April 11, 2001, interest is deemed to have been declined or not granted by this Court.

In the aforesaid fact situation, petitioners are not entitled to any sort of interest on the alleged delayed payment, particularly when judgment dated April 11, 2001 stands complied with.

Dismissed. No costs.

December 05, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No