

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: December 01, 2017

+ **W.P.(C) 174/2016**

ANJANA GABA Petitioner
Through: Mr.Naveen Pushkarna, Advocate

versus

DIRECTOR OF EDUCATION DELHI
& ORS Respondents
Through: Mr.Rahul Bakshi, Advocate and
Mr.Laxmi Narayan from Education
Department for R-1
Mr.Nikhil Parikshit, Advocate for R-2
and R-3

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. This is petitioner's second round of litigation. In the first round, respondent-school was directed to release the admitted amount of ₹83,030/- to petitioner within two weeks and the said amount was to be accepted by the petitioner without prejudice to her rights and contentions. In pursuance of order of 26th September, 2017 in the first round of litigation, petitioner has admittedly received the aforesaid amount of ₹83,030/- but without interest. The question of interest was left open in the first round of litigation, to be considered by respondent-*Directorate of Education*. Impugned order of 3rd July, 2015 declines the payment of interest to petitioner on the additional amount of ₹1,12,174/- also which

was payable by the respondent-school.

2. The question which requires consideration in this second round of litigation, is as to whether petitioner is entitled to payment of interest on the amounts so received. Learned counsel for first respondent draws the attention of this Court to *Annexures A-1, A-2 and A-3* filed along with the counter by first respondent to show that in the years 2012-13, petitioner was called upon to collect the arrears of ₹94,120/- which included the PF amount, subject to petitioner tendering a '*no claim certificate*'.

3. Learned counsel for petitioner submits that since petitioner was entitled to much higher amount than the one offered by the respondent-school vide aforesaid *Annexures A-1 to A-3*, therefore petitioner was not ready to submit a '*no claim certificate*' and thus had not collected the arrears of ₹94,120/-. So, it is submitted that petitioners are entitled to interest on the delayed payment.

4. Learned counsel for respondent-school draws the attention of this Court to the impugned order to submit that in May, 2013 and again in July, 2013, petitioner was requested to collect the arrears of due but she had failed to do so and so, no interest is payable.

5. Learned counsel for petitioner submits that vide communication of 25th May, 2010 and 20th February, 2011 petitioner had declined to take the payment offered because it was much less than the amount due.

6. Upon hearing and on perusal of impugned order, I find that pendency of this case was no justification for respondent-school, not to pay the admitted amount of ₹83,030/- which was due since November, 2006. The offer of the respondent-school to pay this amount vide communication *Annexures A-1 to A-3* was infact no offer as the said offer

was subject to furnishing of ‘*no claim certificate*’ by the petitioner. Even during the pendency of writ petition in the first round of litigation, respondent-school had not come forward to pay the admitted amount. Hence, respondent-school is directed to pay simple interest @ 6% per annum on ₹83,030/- from November, 2006 till the date of payment of admitted amount i.e. on 30th September, 2014. So far as the claim for interest on the amount of ₹1,12,174/- which was paid on 6th December, 2014 is concerned, I find that since the impugned order directing respondent-school to pay arrears on due amount of ₹1,12,174/- has attained finality, therefore respondent-school is in fact liable to pay the interest @ 6% per annum not only on the admitted amount but also on the amount of ₹1,12,174/- which was also payable from November, 2006 and since the impugned order has not been challenged by the respondent-school, therefore this school is also liable to pay interest @ 6% on the amount of ₹1,12,174/- from November, 2006 till the date of its payment i.e. 6th December, 2014. It is made clear that if the payment in abovesaid terms is not made within stipulated time, it shall carry interest @ 12% per annum.

7. This petition is disposed of with direction to the respondent school to comply with this judgment within 6 weeks. Copy of this order be given *dasti* to counsel for respondent-school to ensure its compliance.

(SUNIL GAUR)
JUDGE

DECEMBER 01, 2017
mamta