

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1503-2016 (O&M)
Date of Decision:-02.08.2018.

Phool Chand

.....Petitioner

Versus

M/s Mohan Dai Oswal Cancer Treatment and Research Foundation

.....Respondent

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

Present: Petitioner-Phool Chand in person.

Mr. Manuj Nagrath, Advocate for the respondent.

P.B. BAJANTHRI, J. (Oral)

Today the matter was listed for hearing CRM No.34299 of 2017. With the consent of the parties main matter heard. Main matter is taken up on board today itself.

In the instant petition, petitioner has questioned the order dated 07.08.2015 passed in CRM-266-2015 and order dated 14.12.2015 passed by Additional Sessions Judge, Ludhiana in Criminal Revision No.99 dated 23.09.2015.

2.) The initial grievance of the petitioner is relating to certain wages to be paid to him by the respondent-Management. In this regard, petitioner had approached Labour Department by making necessary application to the Assistant Labour Commissioner wherein a direction was

Since it was not implemented, petitioner filed application before the JMIC for the purpose of implementation. JMIC passed order on 19.08.2013 which reads as under:-

“4. Having empowered with Section 20 (6) of the Act, a penalty of Rs.750/- per day is imposed upon the respondent from the date of order i.e. 28.12.2012 till date and respondent is directed to make payment of Rs.13,377/- along with penalty of Rs.750/- for each day from the date of order till date, on or before 31.08.2013.”

3.) Thereafter, respondent-Management filed a revision petition which was allowed on 25.09.2013. Consequently, petitioner filed Criminal Miscellaneous application before this Court and it was allowed in his favour while upholding the order of the JMIC dated 19.08.2013. Management still aggrieved by the order of this Court, preferred a petition before the Supreme Court wherein Management suffered an order on 06.07.2015. During pendency of the present petition, petitioner had approached the Supreme Court for early hearing and his application was disposed of on 24.10.2016. Para 5 of the affidavit of the Management dated 25.07.2016 reads as under:-

“5 That an amount of Rs.1,89,627/- was to be paid to the petitioner in compliance of the order dated 19.08.2013 which has been duly paid) which includes an amount of Rs.13,400/- and a fine at the rate of Rs.750/- per day to be paid till date as per the order dated 19.08.2013. The fine was purported to be paid from 28.12.2012 till 19.08.2013 which comes out to be 235 days. The amount of Rs.13,400/- was paid on 15.12.2013 which was received by the petitioner and payment of remaining amount of fine which comes out to be 1,76,250/- was made on 07.08.2015 but the petitioner

refused to suffer statement to that effect. Find herein below the details in a tabular form.

<i>Serial No.</i>	<i>Particulars</i>	<i>Amount/Mode of Payment</i>
<i>1</i>	<i>Vide Order Dated 19.08.2013 (Amount of Rs 13,377/- alongwith a penalty of Rs 750/- for each day from date of order i.e. 28.12.2012 till date i.e. 19.08.2013 which comes out to be 235 days)</i>	<i>i) Rs.13400/- paid on 15.10.2013</i> <i>ii) Rs.1,76,250/- paid on 07.08.2015 (235 days x 750)</i> <i>Total = Rs.1,89,650 paid through DD No.275122 dated 03.08.2015 duly received by petitioner.</i>

5.) Grievance of the petitioner is that calculation of penalty of ₹ 750/- for each day from the date of order i.e. 28.12.2012 is required to be interpreted till disposal of the Criminal Miscellaneous application which was disposed of on 20.2.2015. However, the actual payment is made by demand draft for a sum of ₹ 1,89,650/- on 03.08.2015 while calculating ₹ 750/- for each day for the intervening period from 28.12.2012 to 19.08.2013 which would be for about 235 days.

6.) Petitioner who appears in person, submitted that having regard to the order dated 19.08.2013 relating to payment of penalty of ₹ 750/- for each day from the date of order till date, on or before 31.08.2013 is required to be interpreted till making payment i.e. up to 03.08.2015. In other words his claim is that he is entitled to claim of ₹ 750/- for each day from 19.08.2013 to 03.08.2015 also. Having regard to the order dated 19.08.2013 which is extracted supra, it is to be noted that while imposing penalty of ₹ 750/- for each day is stated as “.....along with penalty of ₹ 750/- for each day from the date of order till date, on or before 31.08.2013”, it is to be noted that on 20.02.2015, this Court while allowing the criminal miscellaneous upheld JMIC order dated 19.08.2013 while

setting aside the order dated 25.09.2013 passed in the Criminal Revision. The effect of upholding the order dated 19.08.2013 is required to be taken into consideration for the purpose of calculation of penalty of ₹ 750/- for each day. This Court has not altered the order dated 19.08.2013 on 20.02.2015 to the extent that till disposal of the Criminal Miscellaneous. What has been upheld is only JMIC order dated 19.08.2013. Perusal of the order dated 19.08.2013, it is crystal clear that penalty of ₹ 750/- for each day from the date of order till date means till 19.08.2013. Having regard to the para 5 of the affidavit dated 11.07.2016, it is evident that calculation has been made from 28.12.2012 to 19.08.2013 and amount has been disbursed. In view of these factual aspects, petitioner has not made out a case.

7.) Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

August 02, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.