

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

**CWP No. 11840 of 2018
DECIDED ON: MAY 11, 2018**

GURMEET CHAND

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Krishan Singh Dadwal, Advocate,
 for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred, under Articles 226/227 of the Constitution of India, petitioner has sought a writ especially in the nature of mandamus directing the respondents to make the payment of interest on the delayed payment to him.

2. Concededly, petitioner earlier preferred CWP No. 6568 of 2015, which came up for hearing before this Court on 27.05.2015 and was disposed of in terms of the order passed in CWP No. 5059 of 2011, decided on 27.05.2015.

Despite the direction given by this Court no action was taken, which constrained the petitioner to file COCP No. 1071 of 2016. However, after issuing the show cause notice in the said Contempt Petition, petitioner was ordered to be promoted from the date when his juniors were promoted. As per the bank statements though arrears have been paid in the Month of July, 2017 on different dates, yet no interest was awarded.

3. Here it would be pertinent to mention that CWP No. 6568 of 2015 was dealt with and disposed of strictly in terms of the order passed in CWP No. 5059 of 2011, decided on 27.05.2015. The operative part of the afore-said order dated 27.05.2015 passed in CWP No. 5059 of 2011 reads as under:-

“In the wake of the position as set out above, learned counsel for the parties are ad idem that let these petitions be disposed of in terms of the affidavit, dated 27.05.2015, of the Director Public Instructions (SE), Punjab. It is conceded by all the learned counsel, that the parties to the lis shall abide by the assurance/undertaking/terms of the affidavit dated 27.05.2015. None has expressed any disagreement to the suggested course. Learned State counsel, on instructions, submits that after a final decision is reached by the Government by 30.09.2015 as regards the seniority list dated 07.03.2011, consequential promotions or reversions, if any, shall be effected within a further period of two months thereafter.

That being so, these petitions are disposed of strictly in terms of the duly sworn affidavit of Director Public Instructions (SE), Punjab, Department of School Education, dated 27.05.2015. Needless to assert, the respondent department shall strictly adhere to the process that has been suggested in the affidavit and would abide by the designated time schedule”.

4. A glance at the afore-said paragraph makes it crystal clear that no relief was specifically granted to the petitioner in the said petition with regard to interest. Meaning thereby, that it shall be deemed to have been declined. 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. 5059 of 2015 **“Harpal Singh vs. State of Punjab and others”**, vide order dated 27.05.2005, interest is deemed to have been declined or not granted by the 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 27.05.2015 stands complied with. Dismissed.

MAY 11, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No