

In the High Court of Punjab and Haryana at Chandigarh

CWP No.19785 of 2015

Date of decision: November 26, 2018

Shobha Ram Raturi

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vishva Nath Sharma, Advocate for the petitioner.
Mr. Suvir Sehgal, Advocate for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present case, the petitioner is seeking interest on the delayed payments of two increments, which were stopped by the respondents while imposing punishment vide order dated 14.01.1993, which was declared illegal, null and void by the Civil Court vide order dated 24.02.1997. The factual matrix of the case is as under:

The petitioner joined as Upper Divisional Clerk on 02.02.1968. He continued working as such, when on 05.01.1972 he was promoted as Commercial Assistant but while working as a Commercial Assistant, the petitioner was issued a show cause notice for certain irregularities on 17.10.1988 and an inquiry was got

conducted into it and consequently charge sheet was issued and order of stoppage of two increments with cumulative effect was passed.

The petitioner filed a Civil Suit challenging the said order dated 14.01.1993. The Civil Court decreed the suit on 24.02.1997. In the suit, it is an admitted fact that the petitioner has prayed for arrears @18% interest, which fact duly finds mentioned in para 1 of the judgment of the trial Court itself. After considering all the facts, the trial Court set aside the order dated 14.01.1993 and directed to release the increments, which were withheld by the department after imposing punishment on 14.01.1993. The relevant paragraph 17 of the judgment is as under:

“In view of my forgoing discussions, I am of the considered opinion that suit of plaintiff succeed and same is hereby decreed with costs to the effect that impugned show cause notice dated 17.10.1988 and impugned order dated 14.01.1993 as illegal; null, and void, unconstitutional, ultravires, inoperative and not binding on the rights of the plaintiff. Also plaintiff is held certified for regular annual increments. Also defendants are directed to treat the show cause notice and impugned order dated 14.01.1993 as illegal, null and void and further they are directed to release regular annual increments of the plaintiff along with all the legal benefits. Decree sheet be prepared accordingly and file be consigned to record room.”

It is admitted by the petitioner that the respondents have complied with the decree and have released the increments along with arrears to the petitioner. The only grievance of the petitioner is

that the same have been released without interest and hence the petitioner has filed the present writ petition claiming interest on the said delayed release of two increments.

The respondents have filed reply to the claim and have submitted that the two increments which were stopped on imposing of the punishment on 14.01.1993 have already been released to the petitioner as directed by the Civil Court vide judgment dated 24.02.1997. Despite a claim by the petitioner for interest, no interest was granted by the Civil Court and, therefore, now the present petition is not maintainable as the denial of interest by the Civil Court will amount to rejection of the claim for interest.

To support their claim, counsel for the respondents relies upon the judgment of Hon'ble Supreme Court rendered in **State Bank of India Vs. Ram Chandra Dubey**, 2001(1) SCC 73. The relevant paragraph is reproduced as under:-

“It cannot be spelt out from the award in the preset case that such a right or benefit has accrued to the workman as the specific question of the relief granted is confined only to the reinstatement without stating anything more as to the back wages. Hence that relief must be deemed to have been denied, for what is claimed but not granted necessarily gets denied in judicial or quasi-judicial proceeding.”

I have heard learned counsel for the parties.

It is an admitted case that the petitioner challenged the punishment by which his two increments were stopped and also prayed for interest. The interest was not granted by the Civil Court

in the year 1997. Further more, the order of the Civil Court has already been complied with and after a period of 18 years, thereafter, the petitioner has filed the present petition claiming interest on those delayed payments. Had the petitioner not been satisfied with the decree of the Civil Court, he was free to approach the higher Court for the grant of the claim for which the Civil Suit was filed but was declined. The petitioner did not file any appeal against the order. Hence the petitioner was satisfied with the decree granted in his favour on 24.02.1997 by which no interest was granted. At this belated stage, after a period of 15 years, the petitioner cannot file a second petition for the grant of interest which was denied to him by the competent Court of Law 15 years ago. Therefore, the prayer made by the petitioner for the grant of interest is not at all sustainable.

As per the settled proposition of law once the prayer has been made for relief, which has not been granted, it amounts to declining of the same and, therefore, once the competent court of law has already declined the prayer of the petitioner for the grant of interest, the second petition will not be maintainable for the same and, therefore, in view of the above, the writ petition is without any merit and the same is dismissed.

(HARSIMRAN SINGH SETHI)

JUDGE

November 26, 2018

jt

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No