

In the High Court of Punjab and Haryana at Chandigarh

CWP No.9676 of 2015

Date of decision: November 27, 2018

Bhana Devi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Sangwan, Advocate for the petitioner.
Mr. Sunil Kumar Vashisth, Deputy Advocate General,
Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present writ petition has been filed by the petitioner seeking interest on the payments which were released to her in pursuance of the order passed by the Division Bench of this Court in LPA No.1655 of 2011.

The factual matrix of the case is that the husband of the petitioner late Sh. Rawat Singh was compulsorily retired. The said order of the compulsorily retirement was passed on 25.01.1995. Against the said order, the petitioner preferred the writ petition being CWP No.16764 of 1995. The said writ petition was decided on 13.06.2011 and the claim of the husband of the petitioner was

rejected. Against the said decision, an LPA was filed being LPA

No.1655 of 2011, which was decided on 14.02.2012. While deciding the LPA, the following order was passed by the Division Bench of this Court:

“ As a sequel to the above discussion the appeal is allowed. The judgment of the learned Single Judge is set aside. The order dated 25.01.1995 (P-6) is hereby quashed. Consequently, the petitioner Shri Rawat Singh would be entitled to all the benefits of the post of Yard Master, which shall include arrears of salary from the date of his compulsory retirement till the date of his attaining the age of superannuation. He would also be entitled to the relief of re-fixation of his pension and other retiral benefits by keeping in view the addition of increments etc. and all other consequential benefits. Needless to observe that the additional compensation of Rs.13,708.8P already paid, shall be adjusted from the arrears of pay, which may become payable to the petitioner appellant. All the reliefs be paid within a period of two months from the date of receipt of a certified copy of this order.”

Keeping in view the order passed by the Division Bench, all the benefits were calculated and paid to the petitioner.

The petitioner not being satisfied with the payment again approached this Court by filing CWP No.4983 of 2015 seeking interest on the delayed payments, which writ petition was disposed of on 19.03.2015 by giving a direction to the respondents to pass a speaking order on the notice issued by the petitioner on 05.01.2015.

Keeping in view the order passed by this Court, the respondents passed an order on 21.04.2015 by which the claim of

the interest has been denied. This order dated 21.04.2015 is under

challenge in the present writ petition with a prayer that the respondents be directed to grant the petitioner interest on delayed payments @ 12% per annum.

The respondents have filed reply to the writ petition controverting the claim made by the petitioner.

The respondents in support of the impugned order have stated that as there was no direction for the payment of interest by this Court while deciding LPA No.1655 of 2011, the petitioner cannot claim interest now in the subsequent proceedings. The order passed by this Court in LPA already stands complied with and, therefore, once the interest was not granted by the Division Bench, the petitioner cannot claim interest on the payments which were made to her on account of the decision rendered by the Division Bench in LPA 1655 of 2011.

I have heard counsel for the parties.

The claim of the petitioner for interest is totally misplaced. After the order of compulsory retirement was set aside by the Division Bench on 14.02.2012, a direction was given to the respondents that husband of the petitioner will be deemed to have continued in service till the age of superannuation and, therefore, his pensionary benefits should be refixed along with other retiral benefits including the grant of additional increments. While passing the said order, no interest was awarded by the Division Bench. By this writ petition, the attempt of the petitioner is to get the order of Division Bench dated 14.02.2012 modified so as to grant her the interest on the said payments as well. This Court cannot grant the

same now. Once, there is no order by the Division Bench for the grant of interest on the payments, for which the petitioner became entitled for on the basis of order dated 14.02.2012 passed in LPA No.1655 of 2011, the interest cannot be granted by this Court in the present proceedings. The grant of interest will amount to modify the order of Division Bench which is not at all permissible. In view of the above, the claim of the petitioner for the grant of interest on the delayed payments is rejected and the writ petition is dismissed but with no order as to costs.

(HARSIMRAN SINGH SETHI)
JUDGE

November 27, 2018

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