

**COCP No. 455 of 2017 (O&M)
DECIDED ON: SEPTEMBER 19, 2019**

BALWINDER KAUR

.....PETITIONER

VERSUS

GOPAL KRISHAN SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. S.K. Rattan, Advocate
for the petitioner.

Mr. Aditya Sharda, AAG, Punjab.

AVNEESH JHINGAN, J (ORAL)

The facts in brief necessary for adjudication of the present contempt petition are that the husband of the petitioner died on 28.04.2011 but retiral benefits were not paid. Petitioner filed a writ petition bearing CWP No. 2026 of 2014 for the release retiral benefits. The petition was disposed of vide order dated 04.02.2014 with the directions to take a final decision within a period of four months. Thereafter, a contempt petition bearing COCP No. 1908 of 2014 was filed as the needful was not done. Reply was filed in the contempt proceedings stating that the amount due on account of gratuity and leave encashment has been paid to the petitioner. Petitioner file another writ petition bearing CWP No. 27140 of 2015 seeking interest on the delayed payment of gratuity, family pension and other pensionary benefits. The writ petition was disposed of on 23.12.2015 without adverting into the merits of the case by

giving direction to the Director, Department of Rural Development and Panchayat, Punjab to decide the claim of the petitioner and make payment of interest on the retiral dues within a period of two months from the receipt of the certified copy of the order. The relevant portion of the order is reproduced below:-

“ Without commenting upon the merits of the case, keeping in view the above facts and in view of the settled principles regarding the issue of payment of the interest on account of delayed payment, respondent No.2 is directed to decide the claim of the petitioner and make payment of the interest on the retiral dues within a period of 2 months from the receipt of the certified copy of this order.

In case, there is any dispute regarding facts, it will be open to the respondent-State to file an appropriate application.

Disposed of accordingly.”

The present contempt petition has been filed alleging that the directions of this Court dated 23.12.2015 has not been complied with.

Pursuant to notice of motion, reply by way of an affidavit of Sh. Sewa Singh, Block Development and Panchayat Officer, Shri Hargobindpur, District Gurdaspur was filed, conveying order dated 21.06.2017. As per order petitioner was granted interest but recovery of double payment of gratuity was also done.

Learned counsel for the petitioner states that the respondents have acted beyond the directions of this Court. There was no direction to recover any amount, rather payment was to be made for interest. He further submits that there was direction of this Court that in case, there is any dispute regarding facts, it will be open to the respondent-State to file an appropriate application.

Learned State counsel submits that the directions of this Court were complied with and the petitioner was granted interest but as there was excess payment, therefore recovery was made.

The contention raised by learned counsel for the petitioner is not well founded.

The writ petition was disposed of without issuing notice to the other party and without adverting to the merits of the case. The direction was to decide the claim of the petitioner and thereafter, make the payment.

The reliance on the last portion of the order that in case there is any dispute regarding facts, it will be open to the respondent-State to file an appropriate application, will not come into play in the present case. No facts have been disputed with regard to the claim of interest. A decision has been taken for awarding of interest, and awarded also. The direction would not mean even in case there is some excess payment made to the petitioner, same would not be adjusted.

It would be pertinent to note that in spite of the fact that order is of June 2017, learned counsel for the petitioner candidly submits that no remedies have been availed for challenging the order.

No case is made out for wilful disobedience.

Dismissed.

During the pendency of present contempt petition, applications bearing CM No. 20564-CII of 2017 and 20565-CII of 2017 have been filed for placing on record Annexure P-5 and also for exemption to file certified copy thereof. For issuing direction to the respondent to place on record certain documents, rule, instruction etc. As the main case has already been dismissed,

the afore-mentioned applications have been rendered infructuous and are disposed of as such.

Needless to add that petitioner would be at liberty to avail remedy in accordance with law against the order dated 21.06.2017.

Rule issued against the respondent stands discharged.

SEPTEMBER 19, 2019
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>