

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

(211)

CWP-21684-2015

Date of Decision: February 01, 2019

Prem Rattan

..Petitioner

Versus

Food Corporation of India thr its Managing Director and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Kahlon, Advocate, for the petitioner.

Mr. Manav Bajaj, Advocate, for

Mr. Sumeet Goel, Advocate, for the respondents.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance raised by the petitioner is that the contribution, which the respondents deposited on account of CPF from April, 1980 till March, 1995, has not been deposited alongwith interest and therefore, the petitioner is seeking a direction for interest on the amount of Rs.47,899/- deposited as a contribution for the period April, 1980 till March, 1995.

As per the facts mentioned in the writ petition, the petitioner was working with the Food Corporation of India. In the year 1975, an allegation was alleged against him with regard to the embezzlement of 110 bags of wheat. An enquiry was conducted and after the charge was proved, the petitioner was removed from service in April, 1980. Thereafter, the petitioner filed an appeal before the Disciplinary Authority which was also dismissed on 19.04.1980.

The said order was challenged by the petitioner by filing a writ petitioner bearing CWP No.3719 of 1981. The order passed by the

Disciplinary Authority dated 19.04.1980 was upheld by this Court but the order passed by the Appellate Authority and Reviewing Authority were set aside with the direction to decide the appeal of the petitioner afresh. This order was passed by this Court on 25.03.1992.

Keeping in view the direction given by this Court, an order was passed by the Managing Director on 29.04.1993 by which the penalty of removal for same imposed upon the petitioner was set aside and his suspension period was also treated as a duty period. Keeping in view the said order by which the petitioner was reinstated in service, contribution of the provident fund was to be deposited, which could not be deposited on account that the petitioner remained out of service from April, 1980 till March, 1995.

The respondent-Corporation calculated the contribution which was to be deposited as a member's contribution as well as Corporation's contribution for the period April 1980 till March 1995 and it came to Rs.47,899/- each. The said contribution was deposited by the petitioner as well as the Corporation.

On this deposit, the petitioner is seeking the interest on the ground that the amount of Rs.47,899/-, which was Corporation's contribution, should have been deposited alongwith interest.

It is a matter of fact that the petitioner did not agitate the matter when the said action was taken by the Corporation in the year 1995. The petitioner kept on working till he retired in the year 2006 and was also paid his retiral dues. Now after a period of 9 years of the retirement, the petitioner has filed the present writ petition claiming interest on the Corporation's contribution, which was deposited in the year 1995 to say that the petitioner was wrongly kept out and therefore, the respondents should

deposit the contribution alongwith interest on the amount of Rs.47,899/-.

Notice of motion was issued on 09.10.2015.

In reply to the writ petition, the respondents have taken the preliminary objection that the petitioner is approaching this Court after approximately 20 years after cause of action arose to him and further, the petitioner already stood retired in the year 2006 and has already taken all his benefits, hence, now he cannot approach this Court for the grant of benefit of interest on the delayed payments. Further, the objection has been raised that as the petitioner remained out of service from April 1980 till March 1995, no contribution was deducted from the petitioner's salary and therefore question of depositing the Corporation's share does not arise.

After the petitioner was reinstated, whatever came to the share of the petitioner, the same was deposited without there being any interest and the same amount was deposited by the Corporation as its share also. It is contended on behalf of the respondents that the petitioner cannot claim any interest on the same as for non-deposit of the amount, the valid justification is that the petitioner remained out of service for the said period.

I have heard learned counsel(s) for the parties.

It is matter of fact that the petitioner remained out of service from April, 1980 till March, 1995. Once the petitioner remained out of service, the question of depositing the contributory provident fund by the Corporation does not arise. Immediately upon reinstatement, the said benefit was extended to the petitioner and the Corporation deposited the contribution including their share after collecting the member's share from the petitioner. The interest can only be paid by the Corporation if there was unjustified delay in depositing of the same. Once the petitioner remained out

of service, there was no justification that the amount was to be deposited regularly. Upon reinstatement of the petitioner in the year 1995, the said amount was immediately deposited without there being any further delay and therefore there was no fault on the part of the Corporation in non-deposit of the contribution from April, 1980 till March, 1995 so as to burden the Corporation with interest.

Even otherwise, the said action arose to the petitioner in the year 1995, no grievance was raised by the petitioner at that time, and now, after a delay of 20 years and that too after retirement, the present writ petition has been filed. The petitioner needs to be non suited on this account also keeping in view the fact that after the petitioner already severed his ties with the respondents, he cannot challenge the action of the respondents which took place 20 years before the filing of the writ petition.

In view of the above, the claim of the petitioner fails on merits as well as on the ground of delay.

The present writ petition stands dismissed.

February 01, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes