

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22941 of 2016

Date of decision: -03.12.2019

Gurmail Singh

.... Petitioner

versus

Punjab State Warehousing Corporation and another

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Suresh Kumar Arya, Advocate
for the petitioners.

Mr. S.S. Bedi, Advocate
for respondent No.1.

Mr. Rajesh Hooda, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J. .

As per the averments made in the present writ petition, the petitioner was dismissed from service by the respondents on 02.05.2005 and even after dismissal, the GPF (employee's share) was not released to him and the said amount of Rs.1,65,064/- has only been released to him vide order dated 03.12.2013 (Annexure P/7). Learned counsel for the petitioner argues that as the said amount has been retained and used by respondent No.1, hence, the petitioner is entitled for interest on the said amount from the date it became due, till it was actually released to the petitioner. The prayer of the petitioner is for issuance of direction to the

respondents to release the interest on the amount of Rs.1,65,064/- from the year 2005 till the said amount was actually released to him.

Learned counsel for respondent No.1 argues that the petitioner never approached them for the release of the amount and, therefore, once the petitioner never approached the respondents, no interest is payable upon the amount of GPF (employee's share).

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The Managing Director of the respondent No.1 has passed order dated 03.12.2013, whereby, directions were given to release the GPF, which are very material for determining the present controversy. Relevant part of the order dated 03.12.2013 is as under:-

“ According to the above said rules, no deduction can be done out of payable G.P.F amount of the employee. Therefore, as G.P.F. Payable amount of Rs.1,65,064/- as employees share alongwith interest till 31.10.2005 has been released to Shri Gurmail Singh, Ex. J.E and directed to the office that if an amount of Rs.79690/- as procurement advance are to be recovered from him, then, put up the case regarding this amount which how is to be recovered from him.”

A bare perusal of the order shows that amount of Rs.1,65,064/- was retained to be adjusted against some recoveries stated to be pending against the petitioner. It is not the case that petitioner never approached the respondents due to which the said amount was not released, but the respondents had adjusting the said amount in respect of some recoveries pending against the petitioner. Learned counsel for the respondents states that even according to the respondents themselves adjustment of the amount was not permissible and, therefore, the amount was released to the

petitioner in February, 2014. The delay in release of the amount is not attributable to the petitioner, but was due to the action of the respondent, who have tried to adjust the amount of GPF (employee's share) in respect of certain recoveries, which according to the respondents themselves is impermissible.

A Co-ordinate Bench of this Court in *J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355* has held that where an amount is retained and used by the respondent/employer, an employee will be entitled for interest on the same. Relevant paragraph of the judgment is as under:-

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

In the present case, an amount of Rs.1,65,064/- has been retained and used by the respondent/department and, therefore, the case of the petitioner for the grant of interest on the said amount is squarely covered by the judgement in *J.S. Cheema's case (supra)*.

Keeping in view the above, the present writ petition is allowed. Respondents are directed to calculate the interest @ 9% per annum on the amount of Rs.1,65,064/-from the year 2005 till the same was actually released to him.

Let computation of the interest, for which the petitioner is entitled as per this order be carried out within a period of two months from the date

of receipt of copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)

03.12.2019

JUDGE

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| <i>aarti</i> 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |