

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

(269)

CWP-27981-2017

Date of Decision: October 01, 2019

Ashok Kumar

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishu Garg, Advocate, for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. Harsh Chopra, Advocate, for respondents No. 2 and 3.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the prayer of the petitioner is for issuing a direction to the respondents to release the amount of Rs.1,52,719/- alongwith interest with regard to the over-time which the petitioner has rendered duty in the year 2005-06 as well as in the year 2007-08, which amount has not been released to the petitioner without any valid justification.

Notice of motion was issued on 11.12.2017 and till now, no reply has been filed by the respondents despite the fact that various opportunities were granted and on the last date of hearing i.e. 19.07.2019, last opportunity was granted.

Learned counsel for respondents No. 2 and 3 states that though the reply is ready but due to some discrepancies, it was returned by the Registry and could not be filed within time frame granted by this Court.

Learned counsel appearing on behalf of the respondents, keeping in view the information he has received from the respondents, does

not dispute the entitlement of the petitioner for the release of Rs.1,52,719/- as being claimed by the petitioner. As the payment amount is not disputed by the respondents, respondents are directed to release the said payment to the petitioner.

Learned counsel for the petitioner argues that the said payment was due to the petitioner in the year 2006 and 2007 and the petitioner was not released the said payment without any valid justification and the petitioner was forced to approach this Court in the year 2017 for the release of the same and the amount is yet to be released, therefore, petitioner is entitled for interest on the said delayed payments.

Learned counsel for the respondents argues that as the petitioner has approached this Court after a period of 10 years, hence he is not entitled to claim the benefit of interest.

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

The claim of the petitioner for release of the amount of Rs.1,52,719/- has not been disputed by the respondents. It is also not disputed that the said amount became due to the petitioner in the year 2006-07. No justifiable reason has been given by the respondents to withhold the amount for a period of 10 years. In the absence of any valid justification, it can be very well presumed that the respondents withheld the amount without any authority.

The arguments being raised on behalf of counsel for the respondents that the petitioner had approached this Court after a period of 10 years and therefore, he is not entitled for interest, cannot be accepted.

The entitlement of the petitioner is not being disputed by the respondents. It is not a case that the petitioner raised a disputed claim in the present writ petition. Rather, the petitioner has demanded the release of admitted amount from the respondents. Further, it is the liability of an employer to release the payment to an employee in respect of the service rendered by him. The respondents have failed to discharge their duty of paying the petitioner for the working he has executed for them and therefore, the delay will not come in the way of the petitioner to claim interest for an amount which was admitted and has been retained and used by the respondents for a period of more than 10 years.

A Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782**, has held that in case an amount for which the employee is entitled for, has been retained and used by the department, the employee will be entitled for the interest on the same. The relevant paragraph of the said 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.”

The case of the petitioner is squarely covered by the said judgment and therefore, amount of Rs.1,52,719/- will also carry an interest @ 9% per annum from the date the same became due till the actual release

of the payments by the respondents. The respondents are directed to release the payment within a period of two months from the receipt of certified copy of this order along with interest as granted in this order.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

October 01, 2019
harsha

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