

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

(1)

CWP No.3704 of 2018
Date of Decision: 06.11.2019.

PEPSU Road Transport Corporation and another ...Petitioners

Versus

Appellate Authority under the Payment of Wages Act, 1936-cum-Additional
District Judge, Sangrur and others.

...Respondents

(2)

CWP No.3705 of 2018
Date of Decision: 06.11.2019.

PEPSU Road Transport Corporation and another ...Petitioners

Versus

Appellate Authority under the Payment of Wages Act, 1936-cum-Additional
District Judge, Sangrur and others.

...Respondents

AND

(3)

CWP No.3706 of 2018
Date of Decision: 06.11.2019.

PEPSU Road Transport Corporation and another ...Petitioners

Versus

Appellate Authority under the Payment of Wages Act, 1936-cum-Additional
District Judge, Sangrur and others.

...Respondents

Coram: Hon'ble Mr. Justice B.S.Walia

Present: Mr. Aman Sharma, Advocate for the petitioners in all cases.

Mr. Vikas Chatrath, Advocate and
Ms. Jasleen Kaur, Advocate for respondent No.3 in all the
cases.

B.S.Walia, J.

1. This order shall decide CWP Nos.3704, 3705 and 3706 of 2018, filed by PEPSU Road Transport Corporation against the order passed by the Appellate Authority under the Payment of Wages Act, upholding the award of amount due along with interest @ 12% per annum since identical point is in issue. Facts of the case are being taken from CWP No.3704 of 2018.

2. Prayer in the writ petition is for quashing of order Annexure P/2 dated 08.12.2017 passed by the Appellate Authority under the Payment of Wages Act, 1936-cum-Additional District Judge, Sangrur, upholding order Annexure P/1 dated 27.10.2016, passed by respondent No.2 i.e. Authority under the Payment of Wages Act, 1936-cum-Assistant Labour Commissioner, Sangrur and for reduction of interest awarded from 12% to 9% per annum.

3. Brief facts of the case leading to the filing of the writ petition are that respondent No.3/workman joined service in the petitioner corporation on 11.03.1981 as conductor (CWP No.3704 of 2018), on 19.07.2001 as driver (CWP No.3705 of 2018) and on 26.05.1973 as conductor (CWP No.3706 of 2018). The workmen filed an application before the Authority under the Payment of Wages Act, claiming that during their service, they had performed overtime duty, however, the petitioner corporation had not paid them overtime dues. Workmen claimed an amount of ₹1,15,632/-, ₹1,03,000/- and ₹71,406/- along with 10 times penalty and 18% interest. The Authority under the Payment of Wages Act, allowed the claim filed by the workmen and directed the petitioner to pay an amount of ₹1,15,136/-, ₹1,02,770/- and ₹71,360/- respectively along with 12% interest

within 30 days, failing which, interest would be payable @ 18% per annum, vide order Annexure P/1 dated 27.10.2016.

4. Aggrieved by the said order, the petitioner filed an appeal before the Appellate Authority with the sole prayer for reduction of interest awarded by respondent No.2 as non-payment was not on account of malafide intention of the corporation but due to the poor financial condition of the corporation. Appeal filed by the petitioner was dismissed in all the three cases vide order Annexure P/2 dated 08.12.2017.

5. Sole prayer of the petitioner in the instant petitions is for reducing the rate of interest from 12% to 9% per annum, as the delay in making payment of the amount due to the respondent-workman was due to financial crunch. In support of the aforesaid plea, learned counsel for the petitioner relied upon the decision of this Court in **CWP No.15306 of 2016, titled as Hari Ram and others vs. PEPSU Road Transport Corporation, Nabha Road, Patiala** and other connected writ petitions, wherein interest on account of delayed payment of pensionary benefits was ordered to be released along with interest @ 9% per annum, after the expiry of three months till actual payment. Relevant extract of the aforesaid decision is reproduced as under:-

“17. In case, Bhagwant Singh (supra), this Court, keeping in view the various judgments rendered by the Hon’ble Apex Court, directed the respondents to release all the retiral benefits to the petitioner along with interest @ 9% per annum till the payment is released within a period of three months from the date of receipt of certified copy of the order. Similarly, in case Satpal Singh (supra), PRTC was directed to make payment of

interest @ 9% per annum on the delayed payment as early as possible but not later than six months.

18. A period of more than one year has elapsed from passing of judgment dated July 23, 2016 in CWP No.26520 of 2014 and respondent –PRTC must have earned the amount. No straight jacket formula can be formulated or projected for providing a specific time to disburse the various retiral benefits, however, considering the various judgments as well as financial constraints, PRTC is directed to evolve some source(s) to arrange the money to be paid to the petitioners who owe large responsibilities/liabilities of their families to discharge after retirement. Thus, this Court is of the considered view that it would be apt, proper and justifiable to direct the respondent – PRTC to make the payment(s) within a period of six months from the date of receipt of certified copy of this judgment. The respondent – PRTC is further directed to release the benefit(s), if any, still remains to be paid to any of the petitioner(s) within the aforesaid stipulated period alongwith interest as observed above.

19. As an offshoot of the aforesaid discussion, petitioners shall be entitled to interest @ 9% per annum on the delayed payment after expiry of three months period from the date of their retirement till its actual payment which shall be paid by the PRTC within a period of six months.”

6. Likewise in CWP No.19084 of 2009, titled as Malkit Singh and another vs. PRTC and another, decided on 03.03.2011, pertaining to

payment of arrears of revised pay scale as well as revised pensionary benefits/commuted value of pension, the option of employees to switch out of the pension scheme with an undertaking to refund the advance, if any and in keeping the financial constraints of the Corporation, ordered award of interest to the petitioners to be kept in abeyance but in case of failure of the corporation to adhere to the directions, entitled the petitioner interest @ 9% per annum.

7. Learned counsel also relied upon the decision of this Court in **RSA No.3351 of 2018, titled as PEPSU Road Transport Corporation and another vs. Jit Singh**, decided on 01.06.2018 and **RSA No.742 of 2018, in case titled as PEPSU Road Transport Corporation and another vs. Harbans Sigh and another** decided on 23.05.2018, in which, while taking note of the decision of a Coordinate Bench in CWP No.15306 of 2016 dated 04.09.2017, with regard to payment of interest @ 9% per annum on retiral dues, the Coordinate Bench in the aforementioned two decisions, modified the decision of the trial Court as also the first Appellate Court and held the respondent therein entitled to interest @ 9% per annum on the delayed payment after three months from the date of retirement till actual payment of retiral dues.

8. Learned counsel for the respondent-workman on the other hand has contended that the petitioner corporation illegally withheld their dues on account of overtime allowance, therefore, the order passed by the authorities awarding interest @ 12% does not warrant any interference.

9. I have considered the submissions of learned counsel for the parties.

10. In view of the financial crunch faced by the petitioner corporation as is evident from the decision of the Coordinate Bench in the

decisions as referred to above as also the prevalent rate of interest at the relevant point of time, I am of the considered view that rate of interest awarded i.e. 12% needs to be scaled down and is accordingly scaled down to 9% per annum. However, the respondent/workman shall be entitled to litigation expenses of ₹5,000/- in each case.

11. Writ petition disposed of in aforementioned terms.

06.11.2019.
rajesh.k.khurana

(B.S.Walia)
Judge

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No