

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4417 of 2018

Date of Decision : 08.01.2019

Dilbag Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Onkar Rai, Advocate for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Harsimran Singh Sethi, J.(Oral)

Reply on behalf of the respondents has been filed in Court today. The same is taken on record.

In the present writ petition, the petitioner is challenging the order dated 04.01.2018 (Annexure P-4) by which the claim of the petitioner for the grant of interest on the delayed payment has been declined.

As per the averments made in the writ petition, the petitioner was appointed as a Conductor on 26.09.1977 in Punjab Roadways, Chandigarh and thereafter he was promoted as Inspector on 28.09.2011. Petitioner retired on 31.07.2012 on attaining the age of superannuation. During the service career of the petitioner, punishments were imposed on petitioner, wherein his annual increments were stopped vide orders dated 28.02.1990, 23.08.1995 and 24.08.1995. Vide order dated 28.02.1990, six annual increments of the petitioner were permanently stopped. Vide order

dated 23.08.1995 two annual grade increments of the petitioner were stopped permanently and vide order dated 24.08.1995 four annual increments of the petitioner were stopped.

On 04.12.2012 i.e. after the petitioner had already superannuated, the appellate authority while considering the appeal filed by the petitioner against the above said orders, modified the punishments orders. The order dated 28.02.1990 by which six annual increments of the petitioner were stopped, was modified to the stoppage of one annual increment. The order dated 23.08.1995, by which two annual increments were stopped, was modified only with the conveying of censure and order dated 24.08.1995, by which four annual increments of the petitioner were stopped, the same was modified to the stoppage of one annual increment.

That after the order dated 04.12.2012 was passed by the competent authority, the respondents re-fixed the salary of the petitioner on 11.04.2013 and after the re-fixation of the salary, the petitioner became entitled for the re-fixation of his pensionary benefits and arrears on account of the said re-fixation. That as the arrears were not being paid to the petitioner upon the re-fixation done on 11.04.2013, the petitioner filed CWP No. 21549 of 2017 which was disposed of by this Court on 21.09.2017 by directing the respondents to pass appropriate orders on the legal notice served by the petitioner within a period of three months.

In compliance of the order passed by this Court on 21.09.2017 in CWP No. 21549 of 2017, the respondents passed an order on 04.01.2018 declining the grant of interest on the ground that there is no order of payment of interest passed by the appellate authority while deciding his appeal on 04.12.2012. The order dated 04.01.2018 has been impugned by

the petitioner in the present writ petition.

Upon notice of motion, the respondents have filed reply again reiterating that as there was no order for the grant of interest by the appellate authority while reducing his punishment, hence the petitioner is not entitled for interest as the pay of the petitioner had been re-fixed immediately upon the order passed by the appellate authority on 11.04.2013. Learned counsel for the respondents states that the payment of arrears in pursuance to the re-fixation have already been released to the petitioner on 13.10.2016 and, therefore, the claim of the petitioner for the grant of interest is liable to be rejected.

I have heard learned counsel for the parties and have gone through the record.

Indeed, the petitioner only became entitled for the arrears after the order was passed by the appellate authority on 04.12.2012. The respondents themselves re-fixed the salary of the petitioner vide order dated 11.04.2013. The appellate authority was only deciding the quantum in respect of punishment imposed upon the petitioner and there was no occasion of passing any order in respect of interest at that stage. Further, once the respondents accepted the order passed by the appellate authority and re-fixed the salary from 11.04.2013 as directed by the appellate authority then there was no justification with the respondents to withhold the amount of arrears which the petitioner became entitled for. No justification has been projected or shown as to why the actual amount was released on 13.10.2016 though the re-fixation of the salary of the petitioner was done on 11.04.2013. For this inordinate delay, the respondents are liable to pay the interest and that too only from the date when the pay of the

petitioner was re-fixed i.e. from 11.04.2013.

In view of the above, the present writ petition is allowed. The respondents shall calculate and release the interest on the amount of arrears which the petitioner became entitled for on his re-fixation of his salary as done on 11.04.2013. The interest shall only start from the date 11.04.2013 till the same was disbursed to the petitioner on 13.10.2016 @ 6% per annum.

January 08, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No