

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

LPA No.579 of 2018(O&M)

Date of decision: 22.05.2019

State of Haryana and others

... Appellants

Versus

Asha Malhotra and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellants.

Mr. Rakesh Punj, Advocate, for respondent No.1.

KRISHNA MURARI, C.J. (Oral)

CMs-1560-61-LPA-2018

For the reasons set out in the applications, which are duly supported by affidavits, delay of 160 days in re-filing and 148 days in filing the appeal is condoned.

CMs stand disposed of.

LPA-579-2018(O&M)

The issue arising for adjudication in this appeal filed by the State of Haryana is in respect of the claim of the respondent to release a sum of Rs.23,275/- being 25% share of death-cum-retiral gratuity and further grant of pension and other benefits by taking into consideration length of service from the date of appointment along with interest @ 18% per annum from the due date till the actual payment.

Learned Single Judge after noticing the facts as also the law applicable to the controversy, vide order dated 17.03.2017 impugned in this appeal allowed the writ petition in the following terms:

“ So far as the DCRG contribution share of management is concerned, it is not a denying fact that the management has since been taken over by an Administrator, appointed by the Government. Therefore, the said school is now under the control of the said Administrator. The control of funds of the management also lies with the Administrator of the said school. Therefore, now, the Administrator is liable to pay the DCRG contribution share of the management from the funds of the said school. Accordingly, the Sub Division Officer (Civil), Ambala, who is the Administrator of JRD Arya Girls High School, Ambala City, is ordered to pay the DCRG contribution share of the management, as indicated above, alongwith interest at the rate of 9% per annum from the date of grant of sanction by the Government.

So far as the second part of the relief is concerned, the learned counsel for the petitioner has undertaken to deposit her contribution of CPF alongwith interest from 9.11.1966 till 30.9.1982.

The learned counsel for the petitioner has placed reliance upon the authorities of this Court in Sita Devi w/o Manohar Lal Versus State of Punjab

and others, 2016 (1) SCT 69; Satish Rani Sood Versus State of Punjab and others, 2013 (3) SCT 480 and Mahavir Yadav Versus State of Haryana and others, 2015 (4) SCT 224, where in the said cases, this Court allowed the deposit of CPF alongwith interest and allowed the said period to be computed towards qualifying service for pension.

It being so, the present writ petition is allowed. Respondents are directed to communicate the petitioner about the amount of her share of CPF alongwith interest within one month from the date of receipt of certified copy of this order and thereafter, the petitioner will deposit her share of CPF, from 9.11.1966 to 30.9.1982 alongwith interest, as determined by the Government, within two months from the date of receipt of said communication from respondents. Thereafter, the service of the petitioner shall also be computed towards pension and the pension of the petitioner shall also be accordingly re-fixed and the revised PPO will be issued and the arrears of pension will also be paid to her.”

Shri Deepak Balyan, learned Additional Advocate General, Haryana, fairly concedes that in compliance of the order passed by the learned Single Judge, the respondent-employee has deposited amount of her share of CPF along with interest in the treasury of the State Government on 03.05.2017. The said deposit has been made in compliance of the letter dated

17.04.2017 issued by the District Elementary Education Officer, Ambala to the Manager/Administrator, J.R.D. Arya Girls High School, Ambala City, where she was employed with a copy to her.

In view of the fact that deposit has been made by the respondent and accepted by the appellant, nothing survives in this appeal for adjudication and the same is rendered infructuous particularly when the order of the learned Single Judge stands complied with. Accordingly, the appeal stands dismissed as having rendered infructuous.

At this stage, learned counsel for the respondent pointed out that the gratuity due to be paid to the respondent in terms of the order passed by the learned Single Judge has yet not been released. That being so, it is open to the respondent to take recourse to such remedy as may be admissible in law.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

22.05.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO