

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

**CWP No.2418 of 2017**

Date of Decision: 3.2.2020

.....Petitioner

Jagmohan

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present: Mr. Sushin Jain, Advocate, for the petitioner.

Mr.V.K. Kaushal, Advocate, for the respondents.

**NIRMALJIT KAUR, J.**

Prayer in the present petition is to grant of interest on the delayed payment of retiral benefits w.e.f. 31.5.2012 till the date of realization i.e. 13.8.2013.

There is a delay of 15 months in releasing the benefits, but no interest has been paid on the same.

Learned counsel for the petitioner has placed reliance on the instructions dated 20.2.2002 (Annexure P-5), which deals with the payment of interest on the delayed retiral benefits. As per the instructions, the Government has laid down the rate of interest admissible with the interest rate in force on General Provident Account of the Government employee from time to time.

Reply has been filed. As per the said reply, the petitioner had filed CWP-24750-2013 and in the said writ petition it was admitted by the petitioner that all retiral benefits have been paid vide letter dated 13.8.2013 and in the said writ petition, he did not claim any interest on the delayed payment of retiral benefits received on 13.8.2013. Hence, the present petition was barred by Order 2 Rule 2 CPC, as the relief claimed by the

petitioner was available to the petitioner at that point of time while filing CWP-24750-2013, but still he did not claim the same at that stage. Further, the dues were pending against the petitioner for which petitioner was issued show cause notice dated 30.7.2013, against which the petitioner had filed CWP-24750-2013 before this Court. Even in the said writ petition, there was no denial by the petitioner that there were no shortages of oil and breakage of damaged transformer during the service tenure of the petitioner. In the said writ petition, the petitioner was claiming that benefit of writing off shortage and breakages to the extent of 5% and 20% respectively which was illegal and arbitrary alongwith recovery of withheld amount of retiral benefits. By these shortages and breakages which occurred during the tenure of petitioner, Nigam has suffered pecuniary loss for which the petitioner was served with notice for recovery. Since, the petitioner had himself not paid these dues, therefore, no fault can be levied on the respondents for delayed payments of retiral benefits, Therefore, no interest can be claimed by the petitioner.

Argument of learned counsel for the respondents has no merit as admittedly CWP-24750-2013 was filed only for the quashing of the order dated 13.8.2013, whereby, the recovery was effected from his DCRG to the tune of 1,97,451/- and in any case, the said writ petition was allowed vide order dated 13.7.2016 with a direction to the respondents to return the said amount of 1,97,451/- alongwith interest @ 9% per annum from the date it became due. The operative part of the order is reproduced as under:-

“As such, the impugned order dated 13.8.2013 (Annexure P-5) for effecting recovery of Rs.1,97,451/- is hereby set aside. The respondents are directed to pay the said

amount to the petitioner with interest @ 9% per annum from the date it became due.”

Secondly, the relief sought herein is different from the relief sought in the earlier writ petition. Accordingly, it cannot be said that the present petition is barred by Order 2 Rule 2 CPC. Moreover, the very order passed in CWP-24750-2013 giving direction to the respondents to pay the amount 1,97,451/- alongwith interest @ 9% per annum shows that the pensionary benefits were wrongly withheld. Accordingly, the petitioner is entitled for the interest on the delayed payment of his retiral benefits.

The next argument that much time has passed as the benefits stood paid on 13.8.2013 but the present writ petition seeking interest is filed in the year 2017, does not help, as the interest is liable to the paid from the period it was due till it was finally paid i.e. 13.8.2013 and not for the period thereafter. Therefore, the delay, if at all is not fatal in the present case.

In view of the above, the present writ petition is disposed of with a direction to the respondents to pay the interest on the delayed payment of retiral benefits from the date of the retirement of the petitioner i.e. 31.5.2012 till the date of realization i.e. 13.8.2013 within a period of two months from the date of receipt of certified copy of this order. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of the said two months.

**(NIRMALJIT KAUR)**  
**JUDGE**

**3.2.2020**  
sharmila

|                             |        |
|-----------------------------|--------|
| Whether Speaking/Reasoned : | Yes/No |
| Whether Reportable :        | Yes/No |