

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

C.R No. 1422 of 2021 (O&M)

Date of Decision: 15.09.2021

State of Punjab and others

...Petitioners

versus

Nargej Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Nikhil Chopra, Additional Advocate General, Punjab.

Mr. Surinder Mohan Sharma, Advocate,
for the caveator/respondent.

ARUN MONGA, J. (ORAL)

Revision petition herein is directed against an order dated 09.02.2020 (Annexure P-7), passed by the Appellate Court whereby, an application filed by the petitioner-State for staying the operation of judgment and decree dated 07.03.2020 (Annexure P-4), has been dismissed.

2. Succinctly, brief facts first. Respondent was appointed as Conductor in Punjab Roadways, Pathankot. During his service, a punishment order for stoppage of five increments with cumulative effect was passed against him. The said order was challenged by respondent through a civil suit seeking declaration to the effect that the order Endorsement No. 132-33/ST/GM dated 06.01.1989 stopping five increments of the plaintiff with cumulative effect and also forfeiting the arrears of suspension period were illegal and void and liable to be set aside with consequential relief.

Civil suit was decreed in favour of the respondent employee vide judgment

and decree dated 06.09.1990 (Annexure P-1). Operative part of trial Court judgment is as below:-

“In view of my issue wise findings above the suit of the plaintiff is decreed for declaration to the effect that the impugned order dated 06.01.1989 is illegal and void and thus set aside and the defendants are directed to release the arrears of salary of the plaintiff, as if the impugned order was not existing. The parties are left to bear their own costs. Decree sheet be prepared accordingly.”

3. Aggrieved against the trial court judgment and decree, the department filed an appeal which was accepted vide judgment and decree dated 05.04.1991 (Annexure P-2). Respondent- bus conductor then filed regular second appeal impugning the first Appellate Court judgment and decree, which was allowed vide order dated 01.06.2016 (Annexure P-3) by this Court in RSA No. 1637 of 1991 – Nargej Singh vs State of Punjab and another. Speaking for this Court, Raj Mohan Singh, J. my learned brother allowed the second appeal vide judgment dated 01.06.2016 in following terms:-

“[16]. Consequently, I am of the view that the impugned judgment and decree passed by the lower Appellate Court has to be reversed. Accordingly, this appeal is allowed, decreeing the suit of the plaintiff with costs throughout.”

4. Respondent- Nargej Singh then filed the present Civil Suit NO. 902 of 2017 before the learned Civil Judge (Senior Division), Pathankot for payment of interest of Rs. 9,32,313/- out of which Rs. 3,59,658/- was to be paid by defendant No.1 and 2 (petitioner nos. 1 and 2 herein) from the date of retirement of the plaintiff-respondent as well as Rs. 4,42,655/- to be paid by defendant no. 3 from date of filing suit for declaration dated 09.09.1989 at the rate of interest 12% per annum and suit for mandatory injunction

directing the defendant to grant interest on the arrears paid by them for illegally stopping five increments of the plaintiff.

5. That vide judgment dated 07.03.2020, the learned trial Court held that the respondent/ plaintiff is entitled for the interest at the rate of 9% from the date of entitlement of the increments till filing of the present suit. From the present suit till the realization of amount the plaintiff was held entitled for arrears @ 12% per annum interest. Amount so paid, shall be set off accordingly. Defendant No.3 was also to do the needful as per law. The true copy of the judgment and decree dated 07.03.2020 passed by the learned Civil Judge (Senior Division), Pathankot is Annexure P-4.

6. The contention of learned counsel for the petitioners is that the judgment and decree dated 07.03.2020 passed by the learned trial Court is against the law and the same is not sustainable in the eyes of law. In the previous suit, the respondent-plaintiff neither claimed all the interest of arrears nor the Sub-Judge 1st Class, Pathankot vide judgment dated 06.09.1990 awarded the interest. So in view of the provision of order 2 Rule 2 CPC, the respondent/plaintiff is not entitled for the interest.

7. Learned counsel for the petitioner also submits that in compliance to judgment and decree dated 01.06.2016, petitioner has been paid all the arrears to the respondent and nothing is due towards arrears. But, he argues that neither the respondent demanded interest on the arrears of stoppage of five increments with cumulative effect nor any specific order was passed qua the same.

8. In this regard, reference may be had to decision rendered by me in CWP No. 1169 of 2014 – Darshan Singh and others vs Union of India

and others, decided on 30.01.2019. Relevant part thereof is extracted as below:-

“6. The Tribunal while disposing of the case on 09.12.2005, had observed that it was expected of the respondents to comply with its directions within a period of three months. Even otherwise, the petitioners' dues were required to be paid within a reasonable period. As against this, the dues were paid after 08 years. Pendency of the writ petition before this Court, did not justify the non-compliance of Tribunal's order. There was no ad-interim stay in the case and the writ petition was ultimately dismissed.

7. Even otherwise, the petitioners are entitled to seek interest on their legitimate salary dues, for delayed disbursement as per Section 3 of the Interest Act. For ready reference, the relevant thereof is extracted herein below:

“Power of court to allow interest.—(1) In any proceedings for the recovery of any debt or damages or in any proceedings in which a claim for interest in respect of any debt or damages already paid is made, the court may, if it thinks fit, allow interest to the person entitled to the debt or damages or to the person making such claim, as the case may be, at a rate not exceeding the current rate of interest, for the whole or part of the following period, that is to say,—

(a) if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings; xxxx.....”

A bare perusal of the above shows that the interest can be awarded, in respect of any debt, which has already been paid, at a rate not exceeding the current rate of interest.

8. Accordingly, the instant petition is disposed of with a direction to the respondents that they shall pay interest on the amount of arrears, already paid to the petitioners, to be calculated @ 6% per annum from the expiry of three months after order dated 09.12.2005 was passed by the Tribunal i.e. from 09.03.2006 till the actual payment i.e. December, 2013.

9. In the aforesaid premise, no ground for interference by this Court is made out.

10. Dismissed with costs of Rs.5,000/- to be recovered from the salary of the person who has deposed the affidavit and signed the Power of Attorney, authorising the filing of instant revision petition.

11. In stead of depositing the costs in cash, let Mr. Darshan Singh Gill, Manager, Punjab Roadways, Pathankot, from whom costs is to be recovered, shall plant 50 trees of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in his vicinity where he is residing, under the supervision of Area Officer of the District Horticulture Office, who shall issue a letter of proof to him, for being produced in this Court.

12. Proof of plantation be also furnished by the petitioner in the Registry of this Court, along with supporting letter from Horticulture Department within 10 months, to be placed before this Court, upon receipt thereof. In case the petitioner defaults in doing so, liberty is granted to the Registry shall place the matter before this Court to report non-compliance.

SEPTEMBER 15, 2021
Shalini/vs

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No