IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4021 of 2018 (O&M)
Date of decision: 07.09.2022

Shri Sunder Lal ..**Petitioner**

Versus

The Principal Commissioner and Principal Secretary to Govt. of Haryana Printing & Stationery Department, Haryana and others.

..**Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Harsh Vardhan, AAG, Haryana and
Mr. Jaspal S. Pannu, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

The petitioner herein was previously an employee of the Haryana State Minor Irrigation and Tubewells Corporation(hereinafter referred to as the HSMITC). Subsequently, on closure of HSMITC he was appointed/absorbed in the service of Haryana Government. The petitioner joined in the Haryana Government on 01.07.1998 and worked till the age of superannuation i.e. 30.11.2011.

In HSMITC, the petitioner was not entitled to any pension. However, he was entitled to the benefits under the Employees Provident Fund (hereinafter referred to as 'the EPF'). As per the terms of the appointment letter, the petitioner was required to deposit the amount of EPF along with interest in Employee Provident Fund to avail the benefit of the pension. The petitioner offered to deposit the same vide letter dated 16.05.2002. However, the same was rejected on the ground that HSMITC is a company incorporated under the Companies Act, 1956 and the employees of HSMITC are not eligible for pension except to the extent of pay protection. Forced by the decision, the plaintiff filed the suit which was decreed on 23.05.2014. He was held entitled to the retiral benefits with respect to the past service in HSMITC. The dispute in the present case is confined to an amount of Rs.2,31,970/- which has been retained by the department on the ground that the petitioner was required to deposit the amount of EPF along with the interest in the EPF immediately on his joining the service with the Government. The Executing Court has accepted the objections of the government while dismissing the execution petition as satisfied.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

On the one hand, the learned counsel representing the decree holder contends that once the petitioner offered to deposit the amount and the respondent failed to permit the petitioner to deposit the amount, the petitioner as a result cannot be deprived of the benefit of the said amount.

On the other hand, the learned counsel representing the State of Haryana contends that in terms of the appointment letter, the petitioner was required to deposit the amount which he failed to deposit.

At the cost of repetition, it is important to note that the petitioner offered to deposit the amount vide application dated 16.05.2002. The respondent-State may be justified in deducting the amount along with interest from 1998 till 16.05.2002. However, the State is not justified in charging interest on the amount required to be refunded subsequent thereto particularly, when the petitioner made an offer and expressed his willingness to deposit the said amount.

Keeping in view the aforesaid facts, the revision petition is partly allowed.

Let the department deduct the amount of EPF along with the interest as provided under the relevant Rules from 01.07.1998 till 16.05.2002, to pay the remaining amount to the petitioner.

All the pending miscellaneous applications, if any, are also disposed of.

September 07, 2022 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*