

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 195 of 2022 (O&M)

Date of decision: 10.3.2022

Shamsher Singh (deceased) through his LRs

... Appellants

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Dilbagh Singh, Advocate,
for the appellant.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 01.12.2021, rendered by the learned Single Judge, vide which the writ petition preferred by the appellants, has since been dismissed.

Facts that are required to be noticed are limited.

Shamsher Singh (deceased) joined Haryana Armed Police, as Constable, on 1.8.1985. While he was still on probation, he absented from duty, w.e.f 9.10.1987 to 16.10.1987, as a result, his services were brought to an end. A suit filed by him, assailing the order of termination of his services, was dismissed by the trial court on 31.8.1990. However, vide judgment and decree dated 28.8.1991, an appeal preferred against the said decree was accepted by the first appellate court. Consequently, the order of termination

was set aside, for it was passed on account of misconduct but without holding any enquiry. Resultantly, the appellant was reinstated with continuity of service. The respondents never questioned the said decree any further, and it had since attained finality against the authorities. Whereas, for Shamsher Singh (plaintiff) was denied back wages, he filed a second appeal (RSA No. 40 of 1992), before this Court. However, for he passed away during the pendency of the said appeal, the matter was pursued thereafter by his legal representatives. And eventually, vide judgment and decree dated 23.3.2018, this Court allowed the appeal, for it was of the view that once the termination was held to be illegal and the first appellate court ordered reinstatement, but for any plausible reason, the back wages could not have been denied. Accordingly, the appellants were held entitled to all the consequential/monetary benefits. The respondent authorities preferred a Special Leave to Appeal (C) No.28320/2018 (P-3), against the said decision, which was dismissed by the Supreme Court on 08.04.2019. It is not in dispute that the amount, the appellants were entitled to, in terms of the decision of this Court (*ibid*), was worked out and Rs.82,631/- were disbursed to the appellants, vide voucher No. 183 dated 21.6.2019. However, vide a writ petition filed by the appellants, as indicated above, they prayed for a Mandamus to command the respondents to even grant interest @18% on Rs. 82,631/- for the delayed period, w.e.f. 28.8.1991 till realization. But, the said writ petition has since been dismissed, thus, this appeal.

We have heard learned counsel for the parties and perused the records.

Ex facie, this Court, vide judgment and decree dated 23.3.2018,

accepted the appeal filed by the appellants and awarded back wages from the date of discharge till reinstatement. The requisite amount (Rs.82,631/-) the appellants were entitled to, had since been released on 21.6.2019. Apparently, the appellants are claiming interest on Rs.82,631/-, as indicated above, w.e.f 28.8.1991 (date of judgment and decree passed by the first appellate court) till realisation. As observed by the learned Single Judge, if the matter was pending adjudication before the Courts, till it was finally decided on 23.3.2018, for sure, the authorities could not be fastened with any such liability. At any rate, no such relief was awarded by this Court, while deciding the appeal on 23.3.2018 either. Upon being pointedly asked, if the appellants could claim interest on the amount disbursed to them, in a separate proceedings, such as the one at hand, he failed to substantiate his argument or cite any law. Further, the appellants were held entitled to back wages, pursuant to the decree passed by this Court on 23.3.2018, therefore, in the given circumstances, if they could still claim interest for a period prior to the said decree or w.e.f. 28.8.1991 is another question, which the learned counsel for the appellant failed to address or respond to.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment.

The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 10, 2022
AK Sharma

Whether speaking / reasoned:
Whether Reportable:

YES
YES/NO