

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

(239)

CWP-5635-2021

Date of Decision : December 14, 2022

Sandeep Kumar

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Hooda, Advocate, for the petitioner.

Dr. Kiran Pal Singh, Assistant Advocate General, Haryana.

Mr. N.K. Malhotra, Advocate, for respondent No.5.

HARSIMRAN SINGH SETHI J. (ORAL)

Reply on behalf of respondent No.5 has been filed in the Court today and the same is taken on record.

In the present writ petition, the prayer of the petitioner is that the salary of the petitioner from 15.03.2008 till 31.08.2016 for which period the petitioner worked as Eduset Chowkidar, has not been released, hence, appropriate direction be issued to the respondents to release the same.

After notice of motion, the respondents have filed the reply wherein, the respondents have submitted that as of now, all the arrears for the salary for which the petitioner is entitled for, have already been released

to the petitioner on 18.06.2021, hence, the present writ petition has been rendered infructuous and the same may kindly be disposed of as such.

Learned counsel for the petitioner submits that though the salary has already been released to the petitioner but as the same has been released much after due date and the money was retained by the respondents themselves and that too without any valid justification, the petitioner is entitled for the grant of interest on the said arrears.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The release of the arrears is not disputed and the only claim, which is being raised by the petitioner, is that the petitioner is entitled for interest on the amount which has been released now much after the due date.

The question with regard to the grant of interest has already been settled by the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, according to which, the employee, who is entitled for certain monetary benefits, which have been retained and used by the Department even if the same is not with the mala fide intention, the employee will be entitled for the grant of interest. The relevant paragraph of the said judgment is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence

on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

Once, in the present case, it has not been disputed that the petitioner was entitled for certain arrears and though the same have been released now, the petitioner is entitled for the grant of interest, which is assessed @ 6% per annum from 20.02.2019 when the order was passed by the Division Bench of this Court in ***LPA No.1273 of 2018 titled as State of Haryana and others vs. Devender*** till the actual release of the same. Let the respondents calculate the amount of interest for which the petitioner is entitled for under the present order and release the same within a period of two months from the receipt of certified copy of this order.

In case, the petitioner has any other grievance with regard to the termination of his services etc., the petitioner will be free to approach the respondents by filing appropriate representation.

The writ petition is allowed in above terms.

December 14, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No