

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

**CWP No.8518 of 2018
Date of Decision : 06.05.2022**

Shri Krishan Sangwan

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dharmender Singh Rawat, Advocate
for the petitioner.

Mr. Narender Singh Behgal, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the benefits for which the petitioner was entitled for i.e. the 2nd ACP in the year 2009, has actually been granted to the petitioner in the year 2016 though from the entitled date and the delay is attributable to the respondents and therefore, the petitioner is entitled for interest on the delayed release of the monetary benefits, which the petitioner is to get keeping in view the order passed by the respondents dated 27.05.2016 (Annexure P-9).

As per the averments made in the petition, the petitioner joined the respondent-department as Sub-Divisional Engineer in the year 1992. He was further promoted as Executive Engineer on 03.06.1998. After completion of a period of 11 years of service, the petitioner became entitled for the grant of 1st ACP, which was granted but the 2nd ACP for which the petitioner became entitled on completion of 11 years in September 2009 was not granted to the petitioner and 3rd ACP for which,

the petitioner was entitled for after 17 years, was not granted to the petitioner though, the eligibility of the petitioner was not in dispute.

Learned counsel for the petitioner submits that the petitioner started agitating the same and ultimately, by order dated 27.05.2016 (Annexure P-9), the petitioner was granted the benefit of the 3rd ACP from 02.07.2009 along with arrears. Learned counsel for the petitioner submits that as there was no dispute with regard to the entitlement of the petitioner and the delay in extending the benefit of 3rd ACP is attributable to the respondent-State, the petitioner is entitled for interest as, the money which the petitioner was entitled for starting from 2009 onwards, has only been paid to him in the year 2016.

After notice of motion, the respondents have filed the reply. In the reply also, the respondents has stated that the benefits for which the petitioner was found entitled for have been given but the same is silent as to why, the benefit of 3rd ACP was not extended to the petitioner in the year 2009, when he became eligible for the grant of the same and why the same was delayed up to the year 2016.

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

It is a conceded position that the petitioner became entitled for the grant of 3rd ACP in July, 2009. Further, nothing has been brought to the notice of this Court that there was any impediment in the release of the said benefit to the petitioner at the relevant time. It is a conceded position that in the year 2016, vide order Annexure P-9, the petitioner has been granted the benefit of 3rd ACP from the due date i.e. July, 2009

onwards and the arrears have also been released in favour of the petitioner. That being so, the delay in release of the said benefit of 3rd ACP is attributable to the respondents only.

The question which arises is whether on the arrears which the petitioner received in pursuance to the order Annexure P-9 dated 27.05.2016, the petitioner will be entitled for the grant of interest or not.

As per the judgment of a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, where an amount of belonging to an employee has been retained by the respondents and used to their benefit, the employee becomes entitled for the grant of interest. The relevant paragraph of the same 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.”

In the present case, the monetary benefits for which the petitioner was entitled for in the year 2009 in terms of 3rd ACP were not released to him and were kept and used to their benefits by the respondents themselves. That being so, the claim of the petitioner is covered for the grant of interest keeping in view in ***J.S. Cheema's case (supra)***. Hence, the petitioner is held entitled for the grant of interest at the rate of 6% per annum from July 2009 onwards till the actual payment of release to the petitioner.

Let the computation of interest under this order be made by the respondents within a period of 02 months from the date of receipt of certified copy of this order and the amount so calculated be released in favour of the petitioner within a period of four weeks thereafter.

Petition stands allowed.

May 06, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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