

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

220

LPA-1000-2018 (O&M)

Date of Decision: March 22, 2022

Aruna Sharma

....Appellant

VERSUS

State of Punjab & others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Mr.S.K.Rattan, Advocate, for the appellant.

Mr.S.P.S.Tinna, Addl.A.G., Punjab.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. SANDHAWALIA, J. (Oral) :

Present letters patent appeal is directed against the order dated 05.12.2017 passed by the Learned Single Judge in CWP-19473-2016 whereby the benefit of interest on the delayed payment of arrears of proficiency step-up has been denied to the appellant-writ petitioner.

Counsel for the appellant has relied upon the judgment of the Full Bench in **A.S.Randhawa, Supdg. Engineer (Retd.) Vs. State of Punjab, 1998 (1) SCT 343**, to submit that on account of delay the petitioner is entitled for the benefit of interest and the Learned Single Judge was not correct in denying the said benefit. It is submitted that reference to Section 34(2) Code of Civil Procedure, 1908 was made with the earlier direction to decide the representation which did not mention the payment of interest and therefore, interest is deemed to have been declined. It is contended that the provisions of CPC would not be strictly

applicable to the proceedings in the Writ Court, while placing reliance upon A.S.Randhawa (supra). It is further contended that the payment was made only in the year 2016 after directions had been issued by this Court and thus the appellant was entitled for the benefit of interest.

In the considered opinion of this Court, the claim of interest on delayed payment at the cost of the State is totally unjustifiable. Admittedly, the appellant retired on 31.01.2003 and after a period of 2 years, legal notice came to served on 12.02.2005 (Annexure A-2) to the respondents claiming the said benefits. Thereafter, CWP-8289-2015 was filed, seeking the benefit of directions passed in CWP-6135-2003 titled *Varinder Pal Vs. State of Punjab & others*, decided on 05.07.2005 after a period of 12 years, which has now been placed on record as Annexure A-1. The directions were thus issued to decide the legal notice within a period of four months, as per order dated 30.04.2015.

A perusal of the judgment passed in Varinder Pal (supra) would show that CWP-6135-2003 was filed in the year 2003 and directions had been issued on 05.07.2005 whereby the benefits of proficiency step-up after completion of 24/32 years of service under the Assured Career Progression Scheme with all consequential benefits had been granted and to refund the recovered amount of Rs.21,110/-, had been directed. Thus, it would be apparent that the petitioner in that case was well aware of his rights and approached the Court immediately after his retirement on 31.03.2000, within a period of 3 years.

In the present case, the petitioner who is a fence sitter and who has slept over his rights served the legal notice after a period of 2 years. Then only directions had been issued and the amount was disbursed in the year 2016, in compliance of the orders of the Learned Single Judge. The benefit of interest as claimed by the appellant who slept over his rights, had been totally indolent, is untenable.

It has been time and again held by the Apex Court that filing of representations would not revive the cause of action. Reliance in this regard can be placed upon **C.Jacob Vs. Director of Geology & Min. Indus. Est. and another 2008 (10) SCC 115** and **State of Uttaranchal & another Vs. Sri Shiv Charan Singh Bhandari & others 2013 (12) SCC 179**. Resultantly, law is settled that dead issues cannot be allowed to be raked up time and again. It is to be noticed that the benefits though have been granted on directions issued in the earlier litigation filed by the writ petitioner but on account of his conduct, the claim for interest from the time the appellant retired in 2003 was not made but the litigation was thereafter initiated in 2015 and merely seeking the benefits granted to similarly situated person would not entitle him for the said claim.

The judgment in A.S.Randhawa (supra) pertain to the retiral dues which have been denied by the State for no reason and thus would not be applicable to the facts and circumstances of the present case since the benefits sought were of proficiency step-up claim of which had not been made at the time of service or immediately after retirement. Thus, for reasons separate than what the Learned Single Judge had opined upon

and rejected the claim, this Court is of the considered view that the present round of litigation for the said claim is not justified in any manner.

Accordingly, in view of the above discussion, finding no merit in the present appeal, the same is hereby dismissed.

(G. S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

March 22, 2022
sailesh

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