

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

LPA No. 2396 of 2017 (O & M)
Date of Decision: 29.09.2022

State of Haryana and anotherAppellant(s)

Versus

Banarsi Dass and othersRespondent(s)

LPA No. 1102 2018 (O & M)

State of Haryana and anotherAppellant(s)

Versus

Amrik Singh and othersRespondent(s)

LPA No. 578 of 2018 (O & M)

State of Haryana and anotherAppellant(s)

Versus

Inderjeet Bharti and othersRespondent(s)

LPA No. 1454 of 2018 (O & M)

State of Haryana and anotherAppellant(s)

Versus

A.S. Malhotra and othersRespondent(s)

LPA No. 1490 of 2018 (O & M)

State of Haryana and anotherAppellant(s)

Versus

Inder Singh Hooda and othersRespondent(s)

LPA No. 1766 of 2018 (O & M)

State of Haryana and anotherAppellant(s)

Versus

Harneek Singh and othersRespondent(s)

LPA No. 1841 of 2018 (O & M)

State of Haryana and another

.....Appellant(s)

Versus

V.K. Sharma and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Ms. Palika Monga, DAG, Haryana.

Mr. R.K. Malik, Sr. Advocate,
with Mr. Sunil Hooda, Advocate,
for the respondents (in LPA Nos. 2396 of 2017)

Mr. Ranjit Saini, Advocate,
for the respondents (in LPA Nos.1102, 578 and 1841 of 2018).

Mr. K.L. Arora, Advocate,
for the respondents (in LPA-1766-2018).

None for the respondents (in LPA Nos.1454 and 1490 of 2018).

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 7 cases as the same arise out of the common judgment passed by the learned Single Judge on 30.11.2016 in *CWP No. 8988 of 2015, Banarsi Dass and others vs. State of Haryana and another*.

Consideration in the present letters patent appeal is to the above-said judgment dated 30.11.2016 whereby, the learned Single Judge has granted interest as per Government instructions for the delayed payment by noting that one Assistant who had appeared before the Court had undertaken that the revised pension will be allowed by paying interest to the writ petitioners who had retired prior to 01.01.2006. The writ petition was

application and the copy of letter dated 07.11.2016 (Annexure R-III) of the Principal Secretary to Government of Haryana, Higher Education Department, Chandigarh vide which the revised pension had been allowed during the pendency of the writ petition.

The State had filed a review application before the learned Single Judge, which was dismissed on 16.08.2017 rejecting the ground that there were no instructions and the wrong undertaking was given. The learned Single Judge was of the view that it was a case of delayed payment and the government is bound to pay interest and if the applicant-State is aggrieved, it could approach the higher Courts and, thus, declined to review the order. It is in such circumstances, the appeals have been filed.

It is to be noticed that the learned Single Judge, while disposing of the said cases, decided 7 writ petitions in which there were large number of writ petitioners. For example, in the lead case in Banarsi Dass, there were as many as 102 persons and counsel for the State has pointed out that there are 465 employees as such who are beneficiaries. It is to be noticed that the challenge as such in the writ petitions was to an order dated 28.02.2013 (Annexure P-8) and the order dated 19.12.2014 (Annexure P-10) which had been passed by the respondent-authorities. Interest was accordingly sought as pension had been denied in the corresponding scale of the Lecturers of government colleges on the ground that it was not admissible for the pre-2006 retirees and on account of the fact that the controversy had been settled upto the Apex Court.

A perusal of the writ petition would go on to show that vide Annexures P-8 and P-10, the relief was denied on the ground that the petitioners were not in service on 01.01.2006 and the issue was under

litigation and decided against the State by this Court. The benefit had, however, been given to those who had litigated. Accordingly, request as such by way of representation was made on 31.05.2014 and the final rejection was on 08.01.2015 (Annexure P-10).

Similarly situated persons had already filed writ petition in the year 2013 before the learned Single Judge which had been decided on 25.07.2012 and the benefit of fixation had been given by placing them in the minimum pay band w.e.f. 01.01.2006. No benefit of interest was granted by the learned Single Judge. Rather, recovery which had been effected by the banks was directed to be released to the said petitioners within a period of 2 months from the date of the receipt of certified copy of the order. The State had preferred appeals, which were eventually dismissed on 14.01.2013, the lead case being LPA No. 1955 of 2012, State of Haryana and another vs. Satyapal Yadav and another. The matter was then decided by the Apex Court on 14.01.2013 when the Special Leave to Appeal No. 26907 of 2013 was dismissed on 10.07.2014.

Thus, it is apparent that the present set of private respondents had never agitated for the grievances at an earlier point of time and were fence sitters and initiated the litigation much later in the year 2015. The State, in its wisdom, during the pendency of the writ petition keeping in view the references received and the position of law already settled revised their pensions vide letter dated 07.11.2016 during the pendency of the writ petition vide which they received the said benefits.

In such circumstances, we are of the considered opinion that the benefit of interest which now has been granted w.e.f. 01.01.2006 even though

the original litigants had not been granted the same is not sustainable. The

writ petitioners cannot be placed at a better pedestal who had not initiated the litigation at all and were fence sitters and were only seeking benefits on the strength of litigation, which others had successfully contested uptill the Apex Court. In such circumstances, they cannot be placed at a better footing than the original litigants who never got interest also. Therefore, this aspect went unnoticed by the learned Single Judge.

In such circumstances, no case for grant of interest is made out. Accordingly, the appeals are allowed and the order of the learned Single Judge dated 30.11.2016 is set aside to this extent.

(G.S. SANDHAWALIA)
JUDGE

29.09.2022
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No