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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 229 of 2023
Date of Decision: 06.02.2023

State of Haryana and Another

......Petitioners

Vs

Harvir Singh and Others

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. Kulbir Narwal, Advocate with
Mr. Satish Kumar, Advocate
for the respondents No.1 to 9.

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RAJ MOHAN SINGH, J.(Oral)

The petitioners have preferred this petition for the issuance of an appropriate writ in the nature of Certiorari for quashing the impugned order dated 20.09.2019, passed by the District Judge (exercising the powers of Educational Tribunal), Rohtak to the extent of granting interest @ 9% per annum from the date of retirement/death of the employee of the privately aided Polytechnic Institute.

The appeal filed by the employes and their legal heirs was allowed and the respondents were directed to pay the leave encashment in lieu of the earned leave as per the entitlement of the claimants with interest @ 9% per annum. The interest was ordered to be calculated after three months from the date of death/ retirement of the employee till the date of payment in each case. The respondents were held entitled to pay the leave encashment and interest in the ratio in which they were liable to pay the salary of the employee.

Evidently, the case regarding approval of the entitlement of the employee towards leave encashment was sent to the Finance Department vide letter No.13642 dated 04.11.2019. It is not in dispute that the instruction/letter dated 14.08.2018 covers the case of the employee for grant of benefit of leave encashment. The admitted position has already been discussed in a bunch case with lead case bearing CWP No. 25727 of 2016 titled **Jasmer Singh Vs. The State of Haryana and Others,** in which with reference to the instructions dated 14.08.2018, the relief towards grant of leave encashment was appreciated and it was directed that the respondents shall pay the aforesaid relief and implement the letter after a period of four months and release the benefits of the letter dated 14.08.2018 qua the petitioners therein as the formal approval of Finance Department was needed. Since the case had already been sent to Finance Department, therefore, it was ordered that the benefit shall be released in the aforesaid period of four months after obtaining all the necessary approval.

In the present case, the approval was asked for vide letter dated 04.11.2019, but the same was delayed and was ultimately accorded only on 02.07.2021. In view of the order dated 02.05.2019 passed in a bunch case in **Jasmer singh's case(supra),** the needful in the context of release of leave encashment was to be done within a period of four months after obtaining necessary approval. The delay in question was not attributable to the respondents in any manner. The time consumed by the Government office cannot be considered to be a premium over the aspect of delay that was solely attributable to the Government Department. In view of the instructions dated 14.08.2018, it can safely be ordered that after a period of four months, the benefit became available to the respondents and within the aforesaid period of four months from 14.08.2018, the petitioner department was under legal obligation to seek approval for the release of the benefit towards leave encashment.

Evidently, the case was moved for seeking approval on 04.11.2019 i.e. after much delay of more than four months from 14.08.2018 and there was further delay from 04.11.2019 till 02.07.2021.

Evidently, in case of the Polytechnic Institute of the present nature, the petitioner/ department has admitted that the instructions dated 14.08.2018 are applicable in case of Government Aided Polytechnic Institute, therefore, I have no hesitation to direct the petitioners to pay the interest after four months from 14.08.2018 i.e. from 14.12.2018 @ 6% per annum till final realization of the amount.

With the aforesaid modification, the aforesaid Writ Petition is disposed of.

(RAJ MOHAN SINGH)
JUDGE

February 6, 2023
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No