

CWP-2098-2019
Date of Decision : 06.12.2023

Mukand Gupta

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Mukand Gupta, petitioner in person.

Mr. Teevar Sharma, AAG, Punjab.

Mr. T.S. Attariwala, Advocate for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The instant writ petition has been filed for seeking direction to the respondents to release the counsel fee to the petitioner for defending the respondents i.e. Improvement Trust, Ropar in various cases/petitions filed before this Court.

Counsel for the petitioner contends that he had been engaged by the office of respondent No.3 to defend the interest of respondent No.3 in cases filed before this Court. The fee bill raised by the petitioner in terms of the said engagement was however, not remitted. It was after much persuasion and efforts that the same has finally been released in the year 2019 after a delay of more than 15 years and upon culmination of a departmental enquiry wherein the petitioner was held entitled to the aforesaid amount. He submits that the petitioner had to be unnecessarily dragged into a litigation for recovery of his rightful dues and that he is entitled to interest thereupon. He further submits

that he has no objection in case the accrued interest on the delayed payment of the amount due to the petitioner is released in favour of the Punjab and Haryana High Court Lawyers' Welfare Fund.

Counsel for respondent No.3, on the other hand, contends that the petitioner had been engaged by the erstwhile Chairman of the Improvement Trust even though the petitioner was not on the panel of the Improvement Trust. The payment was delayed on account of the aforesaid discrepancy and a proceeding had to be conducted in order to ascertain the liability before it could be disbursed. He, however, could not offer any valid justification for the inordinate delay of 15 years that has been taken in order to come to such a conclusion and to release the payment.

As per law and the report furnished by the Law Commission, interest is required to be paid where a lawful due to a person is withheld and the person to whom the amount is due, is unlawfully restrained from enjoying the full remuneration/the amount to which he is lawfully entitled.

Under the given circumstances, I find that the right of a claimant to claim interest is legitimate, once an amount is found undisputedly due in favour of the claimant and that the fault on account of any administrative lapses on the part of the respondents cannot be attributed and be permitted to cause a delay in reimbursing the rightful dues in favour of the claimant.

Taking into consideration the totality of the circumstances as also failure on the part of the respondents to tender any valid explanation or justification for an inordinate delay of 15 years in releasing the dues to the petitioner and relying upon Section 34 CPC, the respondents are directed to release interest on the overdue amount @ 6% per annum in favour of the petitioner from the date when such amount fell due till its actual disbursement.

The due amount of interest shall be computed by the respondents within a

period of six weeks of receipt of a certified copy of this order and the amount so assessed shall be deposited by the respondents with the Punjab and Haryana High Court Lawyers' Welfare Fund within eight weeks thereafter. Intimation as regards such deposit shall also be furnished to counsel for the petitioner.

Petition stands disposed of.

Liberty is however, granted to the respondent-Department to seek recovery of the money from the person who was at lapse in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

December 06, 2023

Ps/chugh

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