IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211 **CWP No. 6643 -2021 (O&M)**
Decided on : 03.11.2023

OM PARKASH DOHRA . . .Petitioner

Versus

STATE OF HARYANA AND OTHERS . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Rahul Rana, Advocate for
Mr. Naveen Kashyap, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the action of the respondents in charging the penal interest @ 10 per cent for the period w.e.f July, 2000 till September 2003 on the loan which was given to the petitioner and also for the period w.e.f December 2010 till May, 2020.

2. As per the averments made in the petition, the petitioner who was working with the respondent-department applied for the home loan which was sanctioned on 21.07.2000. A sum of Rs. 1,99,500/- was given as the loan to the petitioner which was to be recovered from the salary of the petitioner in 117 installments of Rs. 1700/- per month but the respondents did not deduct the said installments from the salary of the petitioner immediately upon the advancement of the loan amount in the year 2000

rather the same was started deducting in the year 2003.

3. As for the period of three years, the installments were not deducted, the total amount of the installments which became due for the period concerned, amounting to Rs. 44,400/- was deducted and the petitioner was directed to pay the penal interest on the said amount.

4. Once again, in the year 2003, the petitioner applied for house building loan and the sum of Rs. 1,44,000/- was sanctioned which was to be deposited back in 148 installments amounting to Rs. 1,000/- each month. As respondents did not deduct the amount immediately, and the same was deducted at a later stage, the amount of penal interest was imposed upon the petitioner.

5. The respondents have conceded the fact that inadvertently the house building loan installments was not deducted after the loan was sanctioned and accorded to the petitioner, but submits that once the amount of installments which were due for the period concerned, for which it was not deducted, the lump sum amount was directed to be paid by the petitioner alongwith penal interest as the petitioner was also under duty to inform the respondents-department that despite advancement of the loan, the installments have not been deducted from his salary, hence, the petitioner is liable to pay penal interest @ 10 per cent.

6. Learned counsel for the respondents submits that the said 10 per cent penal interest is liable to be charged on the account of instructions dated 14.11.2023, copy of which has been appended with the present petition as Annexure R-3.

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

8. From the facts, it is a conceded position that petitioner never misrepresented in any manner. The loan was advanced to him which was to be recovered from the salary of the petitioner by the respondents-dapartment. The respondents inadvertently did not start deducting the installment amount upon disbursal of the loan but the same started after a period of three years. For the said period of three years, the arrears of installments has already been recovered from the petitioner but the petitioner had been directed to pay 10 per cent penal interest on the said amount of arrears. The said penal interest is imposed upon the petitioner by placing the reliance upon the instructions dated 14.11.2018 (Annexure R-3). As per the said instructions, the penal interest can only be charged in case the loan amount is misutilized but in the present case there is no allegations that the the petitioner has misutilized the loan rather, the penal interest has been imposed upon the petitioner due to inaction of respondent-department for not deducting the installments which the respondent-department should have deducted after the disbursement of the loan amount. In the absence of any misrepresentation on the part of the petitioner and the inadvertent mistake of respondent-department in not deducting the installments, the petitioner cannot be held liable to pay penal interest on the basis of instructions dated 14.11.2018 on the amount which the respondent failed to deduct from the salary of the petitioner.

9. Keeping in view the above, the present petition is allowed to the extent that the penal interest which is directed to be recovered from the petitioner will not be recovered as the same is not supported by the instructions dated 14.11.2018 Anneuxre R-3) in any manner keeping in view the facts and circumstances of the present case.

10 In case, any amount qua the penal interest on the aforesaid loans has been deducted from the salary of the petitioner, the same will be refunded back to the petitioner within a period of two months from the date of receipt of copy of this order.

11. Accordingly, present petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

03.11.2023
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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~