

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

(214)

CWP-25177-2017

Date of Decision : November 21, 2023

Maya Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shalender Mohan, Advocate, and
Ms. Aarti Sharma, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that the petitioner's retiral benefits were released to him much after the date of retirement, hence, the petitioner is entitled for the grant of interest.

2. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

3. The petitioner was appointed as a Driver with the Haryana Roadways in the year 1986. While working on the said post, departmental proceedings were initiated against the petitioner in the year 1991 and vide order dated 01.03.1994, the services of the petitioner were terminated.

4. The said order of termination was challenged by the petitioner by serving a demand notice dated 08.02.1996 and the Labour Court vide Award dated 19.04.2002, held that the services of the petitioner were wrongly terminated and he was directed to be reinstated in service with full

wages and continuity in service.

5. The award of the Labour Court was challenged by the respondent-State by filing CWP No.7180 of 2003. The award was stayed initially by this Court but ultimately, CWP No.7180 of 2003 was disposed of on 24.09.2013 with a direction that the petitioner will be entitled to the back wages from the date of serving of demand notice till the date the workman had attained the age of superannuation i.e. 31.03.1998.

6. Learned counsel for the petitioner argues that the amount which was retained by the Department, which became due to the petitioner under the Award of the Labour Court dated 19.04.2002, should be released to him along with interest.

7. Learned State counsel contest the said claim on the ground that the Award was to be implemented as it is and once, there was an interim order passed by this Court in CWP No.7180 of 2003, which continue to operate till 24.09.2013 due to which implementation of Award was deffered, the petitioner's claim for the interest is liable to be rejected.

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

9. It is matter of fact that vide impugned Award of Labour Court dated 19.04.2002, the petitioner was reinstated in service along with continuity in service and full back wages. The only modification which was done by this Court while deciding CWP No.7180 of 2003 was that the said back wages will be paid upto the date the petitioner will attain the age of superannuation. That being so, under the Award, the petitioner became entitled for the wages in question which amount has been retained by the Department under the interim orders passed by this Court, which interim order merged with the main order dated 24.09.2013.

10. A Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

11. In the present case, the petitioner had become entitled for the amount in question on 19.04.2002 which amount was actually paid to the petitioner in the year 2017. That being so, for a period of 15 years, the amount was retained by the Department though there was an interim order in favour of the respondent-State but once the said writ petition was decided in favour of the petitioner and that too only with the slight modification with regard to the payment of back wages upto the date of superannuation, keeping in view the settled principle of law settled in ***J.S. Cheema's case (supra)***, the petitioner will become entitled for the grant of interest as the amount belonging to the petitioner was retained by the Department and used to its benefit. The petitioner will be entitled for interest @ 6% per annum starting from the date of Award i.e. 19.04.2002 till the same was actually released. Let the said order be complied with within a period of two months from the receipt of copy of this order.

12. The present writ petition is allowed in above terms.

November 21, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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