

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(216)

CWP No. 25190 of 2017
Date of Decision : 09.08.2023

Ishwar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Wazir Singh, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that though, the benefit of military service rendered during the emergency period was extended to the petitioner vide order dated 11.05.1998 but the benefit of the same was not extended to the petitioner even upto the date when the petitioner retired from service in February, 2003. The prayer of the petitioner is for directing the respondents to grant the benefit, which was allowed to him vide order dated 11.05.1998 with all consequential benefits.

2. Learned State counsel on instructions from Ms. Kshitij, Deputy Director, Department of Industries and Commerce, Haryana, submits that the benefits of the service rendered by the petitioner in

military have already been allowed in favour of the petitioner and due communication has already been sent to the office of the Accountant General, Haryana for the release of the said benefits and the actual benefits will be released after getting the approval from the Office of the Accountant General, Haryana, which is likely to be received within a period of one month from today. Learned counsel for the respondents further submits that immediately upon the approval of the recommendation by the department, the benefits will be actually released in favour of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is seeking these benefits since the year 1998 and 25 years have passed, hence, respondents be made time bound to release the said benefits. Learned counsel for the petitioner further submits that once the respondents themselves have come to the decision that petitioner is entitled for the benefit claimed in the present petition, which was allowed in his favour by the department itself in the year 1998, however, the petitioner is still to get the said benefit even after expiry of 25 years, hence, petitioner is entitled for interest on the said arrears of amount as the department has kept the amount due to the petitioner with itself and used the same.

4. Learned counsel for the respondents, on the other hand, submits that the matter was under consideration with the department and upon finalization of the consideration, the proposal has already been sent to the office of the Accountant General, Haryana for the release of the

benefit of service rendered, hence, in the present case, the prayer for the grant of interest may kindly be declined.

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

6. It may be noticed that it has gone un-rebutted that relief claimed in the present petition was allowed in favour of the petitioner in the year 1998 but actual benefits under the said order are yet to be released even after 25 years of the said relief being sanctioned. Keeping in view the judgment of the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, any amount for which an employee is entitled for but has been retained by the department and used, the employee will be entitled for interest. 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.”

7. Keeping in view the above, the present petition is disposed of with a direction to the department concerned as well as to the Office of the Accountant General, Haryana to issue the required approval to the proposal of the department for the release of the benefits to the petitioner

qua his military service within a period of two weeks from the receipt of certified copy of this order with a further direction to the respondents that actual consequential benefits in terms of the arrears be released to the petitioner within a period of four weeks of the approval received from the Accountant General, Haryana. Further, petitioner is held entitled for interest on the arrears, which will be released to him now @ 6% per annum from the date, the same became due till the actual disbursement of the same.

8. Petition is disposed of in above terms.

August 09, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No