

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

(227)

CWP-28799-2018

Date of Decision : November 08, 2023

Dr. Vijay Kumar Mehra**.. Petitioner****Versus****State of Haryana and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Vikas Sonak, Advocate, for
Mr. Deepak Sonak, Advocate, along with
petitioner in person.

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

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that he is not being granted the benefit of 1st/2nd ACP from the due date, which is causing prejudice to him, hence, the respondents be directed to grant the said benefit along with interest.

2. Learned counsel for the petitioner submits that during the pendency of the present petition, respondents have re-considered the claim of the petitioner and vide order dated 31.12.2021 having endorsement dated 06.01.2022, the petitioner has been granted the benefit of 1st ACP from the due date i.e. 01.11.2009. Learned counsel for the petitioner further submits that the said order has already been implemented and arrears have already been granted to him and only grievance of the petitioner, which survives in

the present writ petition, is that the petitioner is entitled for the interest on the arrears, which have been paid now by the grant of retrospective benefit of ACP.

3. Learned State counsel submits that once the benefit of ACP has already been extended to the petitioner from the due date and arrears have also been extended, keeping in view the facts and circumstances of the present case, the petitioner is not entitled for the grant of interest.

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

5. Keeping in view the order dated 31.12.2021 having endorsement dated 06.01.2022 passed by the respondents, it is a conceded position that the petitioner has already been granted the benefit of 1st ACP from 01.11.2009 and even the consequential benefits of arrears have already been released to him. That mean the petitioner's entitlement for the benefit from 01.11.2009 has been conceded by the respondents themselves while passing the said order. Once the entitlement of the petitioner has been conceded for the grant of 1st ACP w.e.f. 01.11.2009 but the same has been actually released after a period of 12 years, the petitioner was surely caused prejudice and in order to compensate, the petitioner is entitled for the grant of interest also.

6. The claim of the petitioner for the grant of interest is covered by the judgment of the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***. According to the said judgment, 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.”

7. Keeping in view the above, the arrears which have been given to the petitioner in pursuance to the order dated 31.12.2021 having endorsement dated 06.01.2022, the petitioner will also be given interest @ 6% per annum from 01.11.2009 onwards till the actual payment of the same. Let the present order be complied with within a period of two months from the receipt of copy of this order.

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

November 08, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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