

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

264

CWP-8827-2021 (O&M)
Decided on : 01.05.2024

RAGHBIR SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Sachin Gupta Ladwa, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. A. P. S. Sekhon, Advocate for respondent No. 4.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that when the petitioner retired from the post of Forest Guard on 31.05.2013, a sum of Rs. 89,809/- was retained by the respondents on the ground that there is an information of shortage of trees which needs to be enquired into.

2. Learned counsel for the petitioner submits that after the retirement of the petitioner on 31.05.2013 an enquiry was conducted by the department concerned wherein the allegations alleged upon him were not proved which fact is clear from the reply of the respondents itself hence, the amount of Rs. 89, 809/- which has been retained by the respondents for more than 10 years be released to the petitioner alongwith the interest.

3. Learned counsel for the respondents on the other hand submits that an enquiry proceedings was initiated by the respondents-department against the petitioner after his retirement hence, the amount of Rs. 89,809/- was rightly retained by the respondents though it is a conceded fact that the allegations alleged against the petitioner in the departmental enquiry could not be proved.

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

5. It is a conceded position that out of the total gratuity amount admissible to the petitioner, a sum of Rs. 89,809/- was deducted on the allegations alleged that the petitioner has caused loss which allegation was enquired into after the retirement of the petitioner but the said allegation could not be proved. Once, an allegations alleged against the petitioner could not be proved, any amount deducted/retained on the basis of said allegations, not only needs to be released but the petitioner needs to be compensated for not being allowed to use the said amount for the period of 10 years.

6. As per the judgment of a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, wherein it has been 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.”

7. In the present case, the amount of Rs. 89,809/- which has been retained by the respondents for a period of 10 years has been used by the department concerned, hence, keeping in view the facts and circumstances recorded herein above, the petitioner is entitled for release of said amount of Rs. 89,809/- alongwith interest @ 6% per annum from the date of accrual of the said amount i.e. the date of retirement till the actual release of the said amount.

8 Let the order be complied within a period of **eight weeks** from the date of receipt of copy of this order.

9 The present petition is allowed in above terms.

10 Pending civil miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

01.05.2024

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