



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

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CWP-8286-2022 (O&M)
Date of decision : 11.11.2024

Mohan Lal

.....Petitioner

V/S

Punjab State Power Corporation Ltd. and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vikas Kumar Gupta, Advocate for the petitioner.

Mr. Shiv Kumar Sharma, Advocate for the respondents.

NAMIT KUMAR, J. (ORAL)**CM-18382-CWP-2024**

Prayer in the instant application filed under Section 151 of CPC is for placing on record written statement on behalf of the respondents along with Annexure R-1.

Allowed as prayed for.

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1. The instant petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking a writ of mandamus, directing the respondents to release ACP benefits owing to completion of 08 years service along with interest and recovery of Rs.74,021/- made from the petitioner be refunded along with interest.

2. The brief facts, as have been pleaded in the petition, are that the petitioner was appointed as a work charge employee on 05.10.1977 and thereafter, his services were regularized on 18.10.1984

and he was promoted as ALM on 05.05.1995. Thereafter, he was



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promoted as Lineman on 07.06.2015 and retired as such on attaining the age of superannuation on 31.01.2016. The grievance of the petitioner is that while he was in service, he was not granted the benefit of ACP on completion of 08 years of service as ALM and further a sum of Rs.74,021/- was recovered from the petitioner in the year 2015 on account of alleged wrong fixation of pay w.e.f. 01.05.1995.

3. Pursuant to notice of motion, written statement on behalf of the respondents has been filed, wherein it has been stated as under :-

“xx xx xx xx xx

5. *That the contents of para no.5 of the writ petition are admitted to the extent that the petitioner was retired on 31.01.2016 from the post of lineman. It is apt to mention here that considering the store mate as induction post, petitioner received a 9 year time scale vide office order no.70 dated 05.04.1994 and 8 year time scale while office order no.36 dated 17.02.1993. After which petitioner was promoted on 05.05.1995 as an Assistant Lineman and he was given benefit of two increments. During the pre-audit, it was noticed that the petitioner changed the cadre on 05.05.1995, due to which no increment benefit was to be paid and accordingly his salary was re-fixed and recovery of Rs.74,021/- was made. For the kind perusal of this Hon'ble Court, a copy of office order no.36 dated 17.02.1993 is annexed herewith as **Annexure R-1**.*

6. *That the contents of para no.6 of the writ petition are wrong and denied. It is further submitted that the recovery of the amount was made as per the rules and regulations. It is further submitted that the total recovery amount was Rs.74,021/-, which was deducted from his salary of year 2015 and now the same has been paid to the petitioner.*

xx xx xx xx xx”

4. Learned counsel for the petitioner submits that the action of the respondents in making recovery of Rs.74,021/- in the year 2015 i.e.

01 year before his retirement was against the law laid down in judgment



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of the Hon'ble Supreme Court passed in *State of Punjab Vs. Rafiq Masih (White Washer) and others : 2015(1) S.C.T. 195*. He submits that although the said amount has now been refunded to the petitioner on 02.08.2023, however, no interest has been granted on the same. He further submits that the benefit of ACP was wrongly not granted to the petitioner on completion of 08 years of service as ALM.

5. Per contra, learned counsel for the respondents submits that since the petitioner changed the cadre on 05.05.1995 due to which he was not entitled for any increment, whereas benefit of 02 increments was granted to him, therefore, a recovery of Rs.74,021/- was rightly made from him. However, the said amount has now been refunded to the petitioner on 02.08.2023. He further submits that the petitioner received 09 years time scale vide office order dated 05.04.1994 and 08 years time scale vide office order dated 17.02.1993 and thereafter, he was promoted as ALM on 05.05.1995, therefore, he is not entitled for ACP benefit as claimed by him.

6. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

7. Admittedly, the petitioner was appointed as a work charge employee on 05.10.1977 and his services were regularized on 18.10.1984 and thereafter, he was promoted as ALM on 05.05.1995. He was further promoted as Lineman on 07.06.2015 and retired as such on attaining the age of superannuation on 31.01.2016. A sum of Rs.74,021/- was recovered from the petitioner in the year 2015, however, during the pendency of the present petition, the same has been



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refunded to him on 02.08.2023. Since the recovery effected from the petitioner in the year 2015 is against the law laid down by Hon'ble Supreme Court in ***Rafiq Masih's case (supra)*** and the same has been refunded to the petitioner on 02.08.2023 i.e. after a period of about 08 years, therefore, the petitioner is entitled for grant of interest on the said amount.

8. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

9. Apart from this, in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, this Court had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of



the said judgment 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.”

10. So far as the claim of the petitioner for grant of ACP on completion of 08 years of service as ALM is concerned, the same cannot be accepted as the petitioner has retired from service on attaining the age of superannuation on 31.01.2016 and the present petition has been filed in the year 2022 i.e. after 06 years of his retirement. Further, the respondents have stated in the written statement that the petitioner has already granted the benefit of ACPs.

11. In view of the above factual position and settled principles of law, the present petition is partly allowed and the respondents are directed to pay interest @ 6% per annum on the amount of Rs.74,021/- from 2015 till 02.08.2023, within a period of 02 months from the date of certified copy of this order.

11.11.2024
kothiyal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No