

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

107

CWP-9239-2024

Decided on : 25.04.2024

The Punjab State Civil Supplies Corp. Ltd. & another

. . . Petitioner(s)

Versus

Jagat Singh (now deceased) through LRs & another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Mrigank Sharma, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been filed by the Punjab State Civil Supplies Corporation Ltd. - PUNSUP (being Management), for seeking quashing of the order dated 06.10.2023 (annexure P-3), passed by respondent No.2 – Industrial Tribunal, Bathinda, whereby, application under Section 33-C(2) of the Industrial Disputes Act, 1947 (for brevity, 'ID Act') has been accepted by directing to pay the interest @ 6% per annum from 01.06.2015 till 03.04.2019, to respondent No.1 – Jagat Singh (now represented through his legal heirs/Lrs). In fact the application under Section 33-C(2) of the ID Act, was filed by respondent No.1 – Jagat Singh himself, for claiming the amount of leave encashment to the tune of Rs.6,16,000/- along with interest @ 18% per annum, after retiring from his service on 31.03.2015.

2. In response to the claim of Jagat Singh (now deceased), PUNSUP (petitioner herein) took a stand that the said Jagat Singh served the Department from May 1987 to 31.03.2015 and undoubtedly, no charge-sheet

or inquiry was pending against respondent No.1 – workman, during his service period. Thus, considering the situation till the time of retirement of the employee, there was nothing against him, and no proceedings in that regard were pending. Learned Tribunal has held that the payment of leave encashment was delayed unnecessarily, therefore, the interest amount has been ordered to be paid @ 6% per annum from 01.06.2015 i.e. the date when he had become entitled for receiving the amount till 03.04.2019, when the actual payment was made.

3. The observations recorded regarding issue No.1, by the learned Tribunal, are reproduced here-under:-

“Issue No.1

10. Onus to prove this issue was upon the applicant. The deceased applicant, who is now being represented by his legal heirs, claimed the amount of leave encashment of the tune of Rs.6,16,000/- along with interest @ 18% per annum. The respondents contested this application that an amount of leave encashment was withheld by the respondents for the reason that there was complaint against the deceased applicant.

This application was filed by the deceased applicant on 16.02.2018, but it is conceded to by the learned authorized representative of the applicant that the respondents have made payment of leave encashment to the legal heirs on 03.04.2019, but he pressed upon for the interest on the delayed payment, which is hotly opposed to by the authorized representative of the respondents.

Admittedly the deceased applicant served the respondents from May 1987 to 31.03.2015 i.e. the date of his retirement. It is also proved on record that during his service there was no charge-sheet or enquiry pending against the deceased applicant. Meaning thereby when the deceased applicant retired, there was nothing against him and no proceedings were pending against him. If it was the position, then the deceased applicant was entitled for his leave encashment on his retirement and the reason that there was complaint against the applicant and therefore the amount of leave encashment was withheld by the respondents is not a valid reason. The respondents have made the payment of leave encashment to the legal heirs of the deceased applicant on 03.04.2019. The act and conduct of the respondents goes to prove that the reason asserted by them was not a valid reason and therefore the payment has not been made had it been justified and legal and valid reason, the respondents would not have made the payment. It is well settled law laid down by the Hon'ble High Court that the retiral benefits of the employee cannot be withheld in anticipation of any proceedings of recovery of any laws, if any. It there been any order of recovery

or decree against the deceased applicant, the amount of leave encashment could be withheld by the respondents. But there was nothing against the deceased applicant up to his retirement, therefore the respondents were to make the payment of leave encashment (within reasonable time) after the retirement of the deceased applicant. The deceased applicant retired on 31.03.2015, but the payment of leave encashment has been made on 03.04.2019. Therefore the applicant, who is being now represented by his legal heirs, is entitled to receive the interest on the delayed payment. The case law i.e. 1996-1 RSJ Punjab and Haryana High Court 447, 2002 (5) SLR Punjab and Haryana High Court 97, fully covered the case of the applicant. The issue with regard to entitlement of the deceased applicant, who is now being represented by legal heirs with regard to interest on the delayed payment, is decided in favour of the applicant.”

4. After going through the pleadings raised in the writ petition and the reasons assigned by the learned Tribunal in the impugned order dated 06.10.2023 (P-3), I do not find any reason to cause any kind of interference, as the petitioners are entitled for the interest amount, as per law.

Thus, while maintaining the impugned order dated 06.10.2023 (P-3), present writ petition is hereby **dismissed**.

(SANJAY VASHISTH)
JUDGE

April 25, 2024

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*