



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

CWP-7085-2002 (O&M)

Reserved on : 06.11.2024

Pronounced on : 14.11.2024

Puran Chand (since deceased) through his LRsPetitioner

V/S

State of Haryana and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. B.K. Bagri, Advocate for the petitioners.

Mr. Ravi Dutt Sharma, D.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the charge-sheet dated 04.05.2001/proceedings of 2nd departmental inquiry. Further seeking a writ of mandamus, directing the respondents to release all retiral benefits to the petitioner, along with interest @ 18% per annum from the date of retirement till payment.

2. The brief facts, as have been pleaded in the petition, are that the petitioner had joined as Driver in P.W.D. (B&R) Branch, Haryana in the year 1968 on temporary basis and lateron he was allowed to work on work charge basis in the year 1971. Thereafter, his services were regularized in the year 1980 and he retired as Driver on attaining the age of superannuation on 30.11.2001 from the office of the Executive Engineer, Provincial Division No.1, P.W.D. (B&R) Branch,

Ambala Cantt., Haryana. While the petitioner was in service, an

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accident had occurred on 22.04.1994 with the Government Jeep No.HYN-2876(J-168) driven by the petitioner. Consequently, the petitioner, who was the driver of the offending vehicle, was issued a charge-sheet dated 15.03.1995 under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, on the following allegations :-

- “(i) That he drove the Jeep in negligent and rash manner and caused accident, violating the provisions of Rule 3.1(ii) of Government Employees Conduct Rules, 1966.*
- (ii) That he took two persons in the Government Jeep from Ambala Cantt. in an unauthorized manner without any authority, thus, he has violated the provisions of Rule 3.1(iii) of the Government Employees Conduct Rules, 1966.*
- (iii) That he misused the Jeep for 896 km. Thus, he has violated the Rule 3.1(i) of the Government Employees Conduct Rule, 1966.*
- (iv) That he failed to report regarding the accident of the Jeep to the Sub Divisional Engineer, Provincial Sub Division No.6, PWD (B&R), Branch Ambala Cantt/Executive Engineer, Provincial Division No.1, PWD (B&R), Ambala Cantt. and thus, violated the provisions under Rule 3.1(ii) of the Government Employees Conduct Rules.”*

Thereafter, MACT case was instituted by the private persons, who were travelling in the Jeep with the petitioner on that fateful day and ultimately the Government had to make a payment of Rs.1,63,273.25, to the claimants on 27.09.2001. After holding a regular departmental



enquiry, the charges against the petitioner were proved and the Disciplinary Authority i.e. the Superintending Engineer, P.W.D. (B&R) Branch, Ambala Cantt, Haryana vide order dated 01.06.2004 has held as under :-

“xx xx xx xx xx

5. *Now, it is decided as under :-*

Charge No.1: *He was driving the jeep negligently on the said date and caused accident. MACT Court held him responsible for driving negligently.*

6. *There are two judicial cases in which findings have been given on this matter. Judicial Magistrate Ist Class, Rajpura in a criminal proceeding in FIR No.20 dated 23.5.1994 has examined the issue of driver driving the vehicle negligently or rashly from the standpoint of criminal liability under Sections 279 and 338 of IPC and held as under:-*

"...this Court is of the opinion that accused is entitled to benefit of doubt and as such accused Puran Chand is hereby acquitted of the charges framed against him under Sections 279/338 of the Indian Penal Code."

The above findings were invoked by the driver in the case at MACT Court at Patiala, which gave the following findings on this issue :-

"After considering the claim petition filed by the Claimant in totally, I am of the considered opinion that claimant is entitled to claim compensation for the injuries suffered by him in an accident caused by respondent No.1 by colliding his jeep No.HYC-2876 against a stationary truck by driving it rashly and negligently in the morning of 23/24.4.1994."



MACT Court is more concerned about these losses, which have occurred to third party, and not with the issue if driving was negligent or rash. Even if the driving is not negligent or rash, the third party would be entitled to the losses they suffered. The entire judgment of the MACT case does not have any material to positively suggest a rash and negligent driving on the part of the driver. Further it cannot be expected that any driver would drive negligently a vehicle at 4 am in the morning so as to endanger his own life, which is in any case at stake. If an accident occurs in such circumstances, it occurs in spite of best efforts possible at the end of the driver. In the circumstances, it is held that the charge of negligent and rash driving is not proved against the driver.

Charge No.2: *He was driving the jeep unauthorized in carrying the two person namely Sh. Susheel Kumar and Sh. Vinod Kumar.*

7. *The MACT case findings in this respect are that it is clearly in evidence that respondent No.1 was driving jeep No.HYC-2876 on the express command given by the SE Sh. K.K. Singal. On the basis of findings the retired Driver is absolved of the charge.*

Charge No.3: *Inspection after accident revealed that 896 km had not been entered in the logbook.*

8. *It is a fact that only 55 litres of diesel was issued on 22.4.1995 and 23.4.1995. Prior to that log book and diesel account are ok. 22 and 23 were holidays and the driver has told me that the vehicle had been run only in connection with the Ramayan Path. It is therefore, very clear that the 55 litres of diesel are either to driver's account or to the officer's account directing the use of vehicle on those days. The 55 liters of diesel have already been recovered by the department from the driver. I think there is a case in*

the circumstances, for recovering this amount from the officer at whose disposal the jeep was during the period that is Sh. K.K. Singal. When the amount is recovered from Sh. K.K. Singal, the money would be restorable to the driver because balance of convenience demands this. No reliance can be placed in the meter after the accident. In respect of this charge, it is accordingly decided.

Charge No.4: *He did not report the account caused to SDE on 24.4.1994.*

9. *In the circumstances prevalent, when it is clearly known that accident had come to the knowledge of various officers and that the driver was himself hurt and was involved with the police on various issues, the charge is dropped.*

It is accordingly ordered.

*Sd/-
Superintending Engineer,
Haryana PWD (B&R), Ambala Cantt.”*

3. Due to pendency of the abovesaid charge-sheet, the retiral dues of the petitioner were withheld by the respondents and after dropping of the charges against the petitioner on 01.06.2004, the retiral dues were released to him in the following manner :-

Sr. No.	Description	Date of release	Amount released
1.	Commuted value of pension	22.09.2005	1,53,637/-
2.	DCRG (Gratuity)	22.09.2005	1,47,056/-
3.	Pension	22.09.2005	3060/- (P.M.)

4. Learned counsel for the petitioner has submitted that since the charges were dropped against the petitioner, therefore, he is entitled for interest on the abovesaid retiral dues and commutation of pension.



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During the course of hearing, learned counsel for the petitioner has restricted his claim qua grant of interest on the delayed payment of retiral dues and commutation of pension.

5. On the other hand, learned State counsel has submitted that the charges levelled against the petitioner were serious in nature and since the petitioner retired from the service in the interregnum on 30.11.2001, the Disciplinary Authority while taking a lenient view has dropped the charges against him and thereafter, immediately the payment has been released to the petitioner, therefore, he is not entitled for interest on the said amount.

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

7. Admittedly, the charges were dropped against the petitioner on 01.06.2004 whereas the death-cum-retirement gratuity amounting to Rs.1,47,056/- has been released to him on 22.09.2005. Since the respondents have taken a considerable time in releasing the said benefit, therefore, the petitioner shall be entitled for grant of interest on the death-cum-retirement gratuity from 01.06.2004 to 22.09.2005.

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 interest on the commutation of pension is concerned, there is no provision in the Commutation Rules which contemplates payment of interest. This view is supported by the judgment of Hon’ble Supreme Court in **Civil Appeal No.1681 of 2019 (Arising Out of SLP(c) No.31739 of 2016) titled as**

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‘Chief General Manager Gujarat Telecom Circle, Bharat Sanchar Nigam Ltd. and others Vs. Manilal Ambalal Patel & another’ decided on 08.03.2019 and judgment of Coordinate Bench of this Court in *CWP No.6990 of 2017 titled as ‘Dr. Inderjit Singh Hundal Vs. State of Punjab and others’ decided on 03.04.2017.*

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 delayed payment of death-cum-retirement gratuity i.e. Rs.1,47,056/- to the petitioner w.e.f. 01.06.2004 to 22.09.2005, within a period of 02 months from the date of receipt of certified copy of this order. However, the claim of the petitioner qua grant of interest on the commutation of pension is hereby rejected.

12. Pending application, if any, shall stands disposed of accordingly

14.11.2024

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(NAMIT KUMAR)

JUDGE

Whether speaking/reasoned:

Whether Reportable:

Yes/No

Yes/No