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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3379-1998 (O&M)
Date of Decision: 09.02.2024

STATE OF HARYANA AND OTHERS

...Appellants

Vs.

SHAMSHER SINGH

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Saurabh Mohunta, DAG, Haryana.

None for the respondents/plaintiffs.

HARSIMRAN SINGH SETHI, J. (Oral)

The present appeal has been filed by the State of Haryana for the grant of interest on the arrear of retrospective grant of increment in favour of the respondent/plaintiff. It may be noticed that the fresh notice was issued to the respondent/plaintiff for today's hearing. As per the office report, he has been duly served but no one has put in appearance on behalf of the respondent/plaintiff.

2. Learned counsel for the appellants submits that the grievance of the State is that the interest has been granted on the arrear of retrospective grant of increment in favour of the respondent/plaintiff which is arbitrary and illegal and even otherwise, the rate of interest has been granted @12% p.a. which is not in consonance with Section 34 CPC.

3. As no one appears on behalf of the respondent/plaintiff, I have heard learned counsel for the appellant.

4. It may be noticed that once the Department has conceded the

grant of increment from the due date and the same has been granted with retrospective effect, the respondents were under obligation to grant him the interest also. A Coordinate Bench of this Court in of **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, has 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.”

5. Keeping in view the said settled principle of law, no infirmity can be found with regard to the grant of interest to the respondent/plaintiff.

6. The question which arises before this Court is whether the grant of interest @ 12% p.a. is in consonance with the provisions of CPC or not. As per Section 34 CPC, the interest can be granted by the competent Court of law but the same has to be on the bank rates available at the relevant time or, the same has to be 6% p.a. and not beyond that. Nothing has been shown to this Court that any evidence has come on record that the bank rate at the relevant time was 12% p.a. that means, the Lower Appellate Court could not have been granted interest beyond 6% p.a. keeping in view the Section 34 CPC. Hence, the judgment and decree of the Courts below is only modified

to the extent that though the respondent/plaintiff is held entitled for grant of interest on arrears which the plaintiff will get upon the arrears upon retrospective grant of increment from the year 1979 but the rate of interest will be 6% p.a. instead of 12% p.a. as awarded by the Lower Appellate Court.

- 7. The present appeal is allowed in the above terms.
- 8. Pending applications, if any, shall also stands disposed of.

(HARSIMRAN SINGH SETHI)
(JUDGE)

09.02.2024

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