



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

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CWP-13220-2017

Date of decision : 17.09.2024

Sukhwant Singh Ubhi and another

....Petitioners

V/S

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Prateek Pandit, Advocate for the petitioners.

Mr. Teevar Sharma, AAG, Punjab for respondent No.1.

Mr. Atul Kaushik, Advocate for respondent No.2.

NAMIT KUMAR, J. (ORAL)

1. The petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the order dated 09.12.2014 (Annexure P-7) passed by respondent No.2, whereby the claim of the petitioners for releasing arrears of salaries of the petitioners for the period of their contractual appointment after fixing their salaries @ Rs.15,960/- from 01.12.2009 till their regularization, has been rejected. Further seeking a writ of mandamus, directing the respondents to release the arrears of salary of the petitioners during the period of their contractual appointment w.e.f. 01.12.2009 till the date of their regularization, along with interest @ 12% per annum.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioners were appointed to the post of Junior

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Engineer on contractual basis in Punjab Health Systems Corporation (hereinafter referred to as 'the Corporation') w.e.f. 01.12.2009 on a consolidated remuneration of Rs.12,000/- per month. The remuneration of the petitioners and other contractual employees of the Corporation was fixed on the basis of old scales. In its 28th meeting held on 16.02.2010, the Board of Directors of the Corporation, vide resolution No.28.7, approved 33% increase in the consolidated remuneration of all contractual employees of the Corporation which was made applicable w.e.f. 01.08.2009. Vide order dated 09.03.2010, the Corporation implemented the said increase in remuneration of the contractual employees and as per the said order, the remuneration of the each petitioner worked out to Rs.15,960/- per month. However, they were not paid the enhanced remuneration. Thereafter, the petitioners were regularized on completion of three years of contractual service vide order dated 01.01.2013. The petitioners represented the Corporation many times to release the arrears of enhanced salary during the period of their contractual appointment w.e.f. the date of their joining i.e. 01.12.2009 till the date of their regularization i.e. 01.01.2013 but to no avail. Thereafter, petitioner No.1 along with other employees approached this Court by filing CWP No.17282 of 2014 titled as 'Navneet Kumar Bansal and others Vs. State of Punjab and others' seeking release of arrears of enhanced salary relating to the period of their contractual appointment. The said writ petition was disposed of by this Court, vide order dated 19.09.2024 with a direction to the Corporation to take into consideration the representations and legal

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notice and pass necessary orders thereon within a period of two months from the date of receipt of certified copy of the order. It was further directed that if the petitioners therein are found entitled, the amounts would be disbursed to them within a period of one month thereafter and in case relief is to be denied to the petitioners, the Corporation shall pass a speaking order. Pursuant to the said order, respondent No.2 vide order dated 09.12.2014 rejected the claim of petitioner No.1 and other similarly situated employees. Hence, this petition.

3. Pursuant to notice of motion, issued on 02.06.2017, reply dated 20.08.2024 has been filed on behalf of respondent No.2, wherein it has been stated as under :-

“1. That the petitioners filed the present C.W.P. No.13220 of 2017 claiming the benefit of the increase in the wages @ 33% in pursuance to the Resolution passed by Respondent No.2. It is submitted that the petitioners were working with the answering Respondent on contractual basis from 04.12.2009 and 28.12.2009 and their services were regularized vide orders dated 04.12.2012 and 28.12.2012. At the time of their appointment, they were drawing the remuneration of Rs.12,000/- each.

2. That claim of the petitioners has been reconsidered in light of the decision of the Board of Directors dated 16.02.2010 and the same has been allowed to the petitioners by way of increased remuneration @ 33% for the period of their contractual employment. The Order bearing No.PHSC/Engg.Wing/2024/40 dated 20.08.2024 has been issued acceding to their demand/claim as raised in the aforestated two Writ Petitions No.CWP-9770 of 2015 and CWP No.13220 of 2017 with 8 no. of employees as specified in the order dated 20.08.2024. A copy of the said



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Order dated 20.8.2024 is annexed herewith as ANNEXURE R-2/2.

In view of the above, it is respectfully prayed that the present short reply may kindly be ordered to be taken on record with further prayer that in view of the above submissions the present writ petition having become infructuous may kindly be dismissed in the interest of equity, justice and fair play.”

4. Learned counsel for the petitioners submits that although the relief claimed in the present petition with regard to 33% increase in consolidated remuneration for the contractual service period has been granted to the petitioner vide order dated 20.08.2024, however, the same has been granted after a considerable delay of more than 14 years and after the retirement of petitioner No.2, who retired from service on attaining the age of superannuation on 30.10.2016. Therefore, petitioner No.2 is entitled for interest on the delayed payment of arrears of remuneration.

He further submits that since petitioner No.1 is still in service and does not want to further pursue the present petition. Therefore, he may be allowed to withdraw the same qua petitioner No.1.

5. Per contra, learned counsel for contesting respondent No.2, while referring to the averments made in the reply, submits that since the relief sought in the present petition has been granted, therefore, the present petition has become infructuous.

6. I have heard learned counsel for the parties and have gone through the relevant documents.

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7. In terms of order dated 24.07.2024, respondent No.2- Managing Director, Punjab Health Systems Corporation, SAS Nagar, Mohali, is present in the Court. In terms of order dated 13.09.2024 passed in CM-14825-CWP-2024, respondent No.2 has deposited the costs of Rs.10,000/- and the receipt thereof has been placed on record.

8. Admittedly, the petitioners have joined the Corporation on 04.12.2009 and 28.12.2009, respectively, on contractual basis. At the time of their appointment, they were drawing the remuneration of Rs.12,000/- per month. In its meeting held on 16.02.2010, the Board of Directors of the Corporation approved 33% increase in the consolidated remuneration of all contractual employees of the Corporation and vide order dated 09.03.2010, the Corporation implemented the said increase in remuneration of the contractual employees. However, the petitioners were not paid the enhanced remuneration. Their services were regularized vide orders dated 04.12.2012 and 28.12.2012, respectively and despite making various representations to the Corporation, arrears of enhanced remuneration for the contractual period were not paid to them. Petitioner No.2 has retired from service on attaining the age of superannuation on 30.10.2016.

9. As per reply filed by respondent No.2, the arrears of enhanced remuneration for the contractual period has been paid to the petitioners vide order dated 20.08.2024, whereas the Corporation implemented the said increase in remuneration of contractual employees vide order dated 09.03.2010. No plausible explanation/reasons for delay of more than 14 years in payment of arrears of increased remuneration



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has been given in the reply. Therefore, petitioner No.2 cannot be denied the benefit of interest on the delayed payment of arrears in the facts and circumstances of the present case

10. 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.”

11. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, 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.”

12. In view of the above factual position and settled principles of law, the present petition is disposed of qua petitioner No.2 and the respondent-Corporation is directed to pay interest @ 6% per annum to petitioner No.2, on the delayed payment of arrears, w.e.f. 09.03.2010 (i.e. the date from which the Corporation implemented the 33% increase in remuneration of contractual employees) till the actual date of payment, within a period of 02 months from the date of receipt of certified copy of this order.

13. However, the present petition is dismissed as withdrawn qua petitioner No.1.

17.09.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No