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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-17794-2021

Date of decision: 02.09.2024

RAM CHANDER JAIN

...Petitioner

VERSUS

STATE OF HARYANA AND ORS

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Pankaj Sharma, Advocate  
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

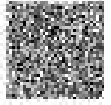
Mr. Rajesh Gaur, Advocate  
for respondents No.2 and 3.

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JASGURPREET SINGH PURI, J. (Oral)

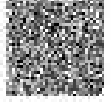
1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondent-Corporation to pay interest on delayed payment of balance amount of retiral benefits to the petitioner @ 18% per annum from the date of his retirement i.e. 31.01.2008, which he received in the year 2018-2019.

2. Learned counsel for the petitioner submitted that the petitioner retired as Manager (Grade-III) on 31.01.2008 from the respondent-Corporation and he was earlier under suspension because of pendency of an FIR and he had rather filed two writ petitions before this Court bearing CWP-1440-2013 and CWP-2885-2013, which were allowed by a Coordinate Bench of this Court on



17.08.2016 (Annexure P-1), vide which so far as the punishment order is concerned, the same was set aside and so far as treating of the suspension period as duty period is concerned, the same was also allowed and after setting aside the impugned orders, the respondents were directed to release all the consequential benefits to the petitioner within a period of three months. He further submitted that thereafter, the respondent-Corporation filed an LPA assailing the aforesaid judgment passed by a Coordinate Bench of this Court but the same was dismissed *in limine* by a Division Bench of this Court on 25.07.2018 vide Annexure P-2 and it was thereafter that all the retiral benefits were paid to the petitioner, which have been so depicted in para No.7 of the writ petition. He further submitted that once a Coordinate Bench of this Court had allowed the aforesaid writ petitions by setting aside the actions of the respondents and direction was issued to release all the consequential benefits to the petitioner, then the same were required to have been released to the petitioner along with interest @ 6% per annum because it is an amount which was kept by the respondents with them and it is not an amount which is claimed as a compensation or damages. He further submitted that the aforesaid interest has not been paid to the petitioner and there is no justification for denying the same. He referred to the judgment passed by a Coordinate Bench of this Court passed in CWP-15867-2001 titled as *J. S. Cheema versus The State of Haryana and others*, decided on 20.11.2013 in this regard.

3. On the other hand, learned counsel for respondents No.2 and 3 submitted that all the retiral benefits have been paid to the petitioner although after dismissal of the aforesaid LPA by a Division Bench of this Court vide



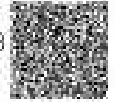
Annexure P-2. He further submitted that due to the pendency of the aforesaid two writ petitions and the LPA, retiral benefits of the petitioner were withheld and therefore, the petitioner is not entitled for grant of interest.

4. I have heard the learned counsels for the parties.

5. The only issue involved in the present case is that once a Coordinate Bench of this Court had allowed the aforesaid two writ petitions filed by the petitioner, whereby not only the punishment order was set aside but also it was directed that the suspension period be treated as duty period and thereafter, a direction was issued to the respondents to release all the consequential benefits to the petitioner within a period of three months, then in that situation, the petitioner was certainly entitled for grant of interest because once a direction was issued by this Court to release all the consequential benefits to the petitioner then it included the interest part also because the amount of retiral benefits was kept by the respondents with them and it is not the case of the learned counsel for the petitioner that the aforesaid interest is claimed as a matter of compensation or damages.

6. The operative part of the aforesaid judgment passed by a Coordinate Bench of this Court on 17.08.2016 vide Annexure P-1, is reproduced as under:-

*“In view of all that has been discussed above, writ petitions are allowed. As regards CWP No. 2885 of 2013, in view of the acquittal of the petitioner in FIR No. 125 dated 12.5.2007 and in view of the order dated 24.10.2007 and in continuation of the same another order issued later on 29.3.2010 (Annexure P-4 and P-4 colly) and office order dated 29.3.2010 (Annexure P-5), his suspension period from*



*13.5.2007 to 24.10.2007 be treated as duty period. As regards CWP No. 1440 of 2013, impugned orders are set aside and the respondents are directed to release all the consequential benefits to the petitioner within a period of three months of the receipt of a certified copy of this order.”*

7. A Coordinate Bench of this Court in **J. S. Cheema’s case (supra)** while dealing with this aspect with regard to the interest observed as under:-

*“In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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 laying 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.”*

8. A perusal of the aforesaid would show that it is a jurisprudential aspect that when an employee is claiming compensation or damages then it is a different thing but when an amount of retiral benefits is kept by the employer then the employer is bound to return back the said amount along with interest because otherwise it will amount to unjust enrichment of the employer. There is no justification coming forthwith from the respondent-Corporation as to why the petitioner should be denied the interest once the aforesaid writ petitions



filed by him have been allowed by a Coordinate Bench of this Court vide Annexure P-1.

9. In view of the aforesaid facts and circumstances of the present case, the present writ petition is allowed. The petitioner shall be entitled for interest @ 6% per annum (simple) on the delayed payment of retiral benefits from the date after two months of his retirement till the date of its actual disbursement. The respondent-Corporation is directed to calculate the aforesaid interest and pay the same to the petitioner, within a period of three months from today. In case the aforesaid amount is not paid to the petitioner within a period of aforesaid three months, then the petitioner shall be entitled for future rate of interest @ 9% per annum (simple).

02.09.2024  
Chetan Thakur

(JASGURPREET SINGH PURI)  
JUDGE

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