



CM-17634-CWP-2023 in/&
CWP-17980-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-17634-CWP-2023 in/&
CWP-17980-2016 (O&M)
Date of Decision :14.10.2024

Harpal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H. S. Dhindsa, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

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As prayed for, application is allowed.

Counter affidavit dated 09.10.2023 is taken on record as
Annexure A-4.

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In the present petition, grievance being raised by the petitioner is that the petitioner, who was suffering with the mental sickness was not being paid salary despite the fact that under the provisions of Persons with Disabilities Act, 1995 in case, any employee suffers from any mental sickness, he/she is entitled for full salary till the date of his/her retirement.

After notice of motion, the respondents initially contested the claim of the petitioner but now the respondents have filed an affidavit dated 14.10.2024 of Mr. Rohit Gupta, Sub Divisional Magistrate, Ludhiana (East)



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wherein, in para 3 of the said affidavit, benefits which have been admissible to the petitioner after reconsideration of his claim have been allowed which also includes salary from the year 2013 till retirement and other pensionary benefits.

Learned counsel for the petitioner submits that the salary for the period from 1998-2013 has not been given despite the fact that the petitioner was suffering with mental sickness.

Learned counsel for the respondents submits that the first certificate qua the mental sickness of the petitioner was submitted by the petitioner in the year 2013 and hence, as there was no record available qua the mental sickness of the petitioner prior to the said date, the said period has been treated as 'no work no pay' though, the said period has been taken into account for computing the pensionary benefits of the petitioner by treating the same towards the qualifying service.

Learned counsel for the petitioner further submits that as the benefits are being given to the petitioner now including the salary as well as pensionary benefits, the petitioner is also entitled for the grant of interest.

Learned counsel for the respondents submits that as the adjudication to the claim of the petitioner was done after the filing of the present petition, claim of the petitioner for the grant of interest may kindly be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that there was no record available with regard to the fact that whether the petitioner was suffering with mental



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sickness before he submitted his mental sickness certificate with the respondents in the year 2013, thereby in the absence of any record to treat the petitioner as mentally sick from 1998 to 2013, the claim of the petitioner is not made out.

Further, in the year 2013, a certificate qua the mental sickness of the petitioner was submitted by the petitioner but he was made to litigate for his entitled benefit and not only this, he was not even paid his pensionary benefits after his retirement and the same have only been given now keeping in view the affidavit dated 14.10.2024 filed by the respondents.

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.”

In the present case, the respondents themselves have granted the benefits admissible to the petitioner, details of which have been given in para-3 of the affidavit dated 14.10.2024. Once, the respondents have



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themselves extended the benefits in favour of the petitioner, it can be safely presumed that the petitioner was entitled for the said benefits when the same became due, which benefits were retained by the respondents hence, the petitioner will be entitled for the grant of benefit of interest on the amount as mentioned in para-3 of the affidavit dated 14.10.2024 including salary and pensionary benefits such as, gratuity as well as pension @ 6% per annum from the date the said amount became due till the actual payment has been made.

Let the interest under the present order be calculated and the amount admissible to the petitioner be released in favour of the petitioner within a period of 08 weeks from the date of receipt of copy of this order.

Present petition stands disposed of in above terms.

Civil miscellaneous application pending, if any is also disposed of.

October 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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