

245
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15602-2023(O&M)
Date of decision: 30.04.2024

Baljeet Singh

...Petitioner

VERSUS

Managing Director, HVPNL and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sandeep Thakan, Advocate, for the petitioner.

Ms. Prerna Malhotra, Advocate for
Mr. Prateek Mahajan, Advocate, for the respondents.

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 respondents to count daily wages/work charge services for the purpose of pensionary/retiral benefits to the petitioner which was rendered prior to regularization.

2. Learned counsel for the petitioner has submitted that the petitioner was appointed on daily wages in the year 1981 at class IV post and thereafter his services were regularised on 01.10.1992 and thereafter, he retired on 31.03.2017 as AFM. He submitted that when he retired then his retiral benefits were fixed and released to him for the period for which he discharged his

duties on work charge basis but the period which he served on daily wages was not counted for pensionary benefits which was in violation of the judgments in *Hari Chand Versus Bhakra Beas Management Board and others, 2005(2) RSJ 373* and *Kashmir Chand Versus Punjab State Electricity Board and others, 2005(4) SCT 298*. He submitted now during the pendency of the present petition, the aforesaid relief has been granted to the petitioner by the respondents by counting his daily wages service for pensionary benefits and an amount of Rs. 1,92,712/- has been paid to the petitioner as arrears but it has been paid without interest and the petitioner is also entitled for interest on the aforesaid amount because the action of the respondents was not in accordance with law and rather the respondents on their own have granted the benefit because granting of the benefit was in accordance with law and the judgments as aforesaid.

3. On the other hand, learned counsel appearing on behalf of the respondents submitted that during the pendency of the present petition on 31.11.2023 the gratuity order has been prepared and the aforesaid amount has been paid to the petitioner on 08.12.2023 but he has also furnished an undertaking that now he has received the amount and he wants to finish the Court case. She also supplied some documents including the aforesaid undertaking but in a vernacular form which are taken on record as Mark-X. She submitted that in view of the undertaking given by the petitioner, he is not entitled for the grant of interest.

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

5. During the pendency of the present petition, the respondents have granted the benefit of counting of past service by re-fixing the retiral benefits

and granted the petitioner arrears of Rs. 1,92,712/-. However, as per learned counsel for the petitioner interest on the same has not been paid and it was not the fault of the petitioner whereby the aforesaid benefit was not granted to the petitioner. This Court is of the considered view that once the respondents themselves have granted the aforesaid benefit to the petitioner during the pendency of the present petition especially in view of the settled law, then interest on the same ought to have been given. Merely giving of an undertaking by the petitioner is of no consequence and the same cannot be enforced against the petitioner.

6. In view of the above, the present petition is partly allowed with a direction to the respondents to grant an interest @ 6% per annum on the aforesaid amount (if the interest amount has not already been paid) within a period of 3 months from today.

(JASGURPREET SINGH PURI)
JUDGE

30.04.2024
rakesh

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