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

(233)

CWP-23341-2019

Date of Decision : October 22, 2024

Balwinder Singh

.. Petitioner

Versus

State of Punjab and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate and
Ms. Chandanpreet Kaur Ahluwalia, Advocate,
for the petitioner.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that a sum of Rs.1,63,011/- was recovered from the gratuity of the petitioner at the time of the retirement though, the recovery order had already been set aside by the competent Court of law.

2. Learned counsel for the petitioner submits that though the amount has been returned but the same was kept by the respondents and the petitioner was not able to use the same due to which, the petitioner is entitled for interest on the said amount.

3. Learned counsel for the respondents submits that once the amount has been returned, the grant of interest does not lie.



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

5. It may be noticed that the competent Court of law had set aside the recovery order amounting to Rs.1,63,011/- vide order dated 27.07.2002. Even the RSA filed by the respondents was dismissed on 15.11.2018. The petitioner retired subsequently to the passing of the order by the Civil Court on 30.06.2006. Despite the decree passed by the Civil Court dated 27.07.2002, recovery was still made from the pensionary benefits of the petitioner, which is arbitrary and illegal and contrary to the judgment of the Civil Court which was binding between the parties. The recovered amount was kept by the respondents for a period of 13 years and the same was only returned in the year 2019.

6. 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 **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.”

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7. Keeping in view the fact that amount in question amounting to Rs.1,63,011/- was recovered from the petitioner despite the decree in his favour and the respondents had kept the said recovered amount without any valid jurisdiction, the petitioner is entitled for interest on amount of Rs.1,63,011/- from the date the same was recovered till the same was repaid to the petitioner @ 6% per annum. Let the interest for which the petitioner becomes entitled for under this order, be calculated within a period of eight weeks from the receipt of copy of this order and the same amount be released to the petitioner.

8. The present writ petition is disposed of in above terms.

October 22, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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