

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

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LPA-409-2016 (O&M)
Date of decision:- 29.04.2024

Brij Pal Sharma

....Appellant

vs.

State of Haryana and ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. P.K. Rohilla, Advocate
for the applicant-appellant.

Mr. Hitesh Pandit, Addl.A.G. Haryana

Mr. S.K. Kaushik, Advocate
for respondent No. 4

SANJEEV PRAKASH SHARMA, J. (Oral)

C.M. No. 4950-2023

The present application has been filed for early hearing of the main appeal.

After going through the contents of the applications, the same is allowed and the main case is taken on board today itself for disposal.

LPA-409-2016

1. This is an appeal filed by the writ-petitioner in whose favour the learned Single Judge passed an order dated 08.07.2015 in the following terms:-

*“Keeping in view the above discussion, this writ
petition is allowed; the order dated 30.03.2009 (Annexure*

P-13) passed by respondent No.2 is quashed and the respondent Nos.4 and 5 are directed to make deemed reinstatement of the petitioner in service till the age of his superannuation i.e. from 26.03.2001 till 31.10.2003 and to release all the arrears of salary, gratuity, revised pension as per Haryana Aided Schools (Special Pension and Contributory Provident Fund) Rules, 2001, leave encashment, provident fund and other retiral dues to which the petitioner stands entitled alongwith interest @8% per annum from the date it became due till the date of actual payment.”

2. Being dissatisfied with the relief granted to him, the writ petitioner has approached this Court claiming interest @ 18% compounded per annum on the amount, as he submits that he was wrongfully retired from service.

3. The concept of granting interest has to be examined on the facts of each case. In the present case, we find that erroneously the petitioner was compulsorily retired, as he had not completed 20 years of minimum service. It is on account of the same that the State Government directed him to be reinstated. It appears that the Director also passed an order granting him arrears along with interest and costs and, therefore, emboldened the petitioner for the same benefit by filing the present appeal. The Apex Court in the case of *J.N. Srivastava vs. Union of India and anr*, (1998) 9 SCC 559 has held as under:-

“3. In view of the aforesaid decision of this Court it cannot be said that the appellant had no locus standi to withdraw his proposal for voluntary retirement before 31-1-1990. It is to be noted that once the request for cancellation of voluntary retirement was rejected by the authority concerned on 26-12-1989 and when

the retirement came into effect on 31-1-1990 the appellant had no choice but to give up the charge of the post to avoid unnecessary complications. He, however, approached the Tribunal with the main grievance centering round the rejection of his request for withdrawal of the voluntary retirement proposal. The Tribunal, therefore, following the decision of this Court ought to have granted him the relief. We accordingly, allow these appeals and set aside the orders of the Tribunal as well as the order of the authorities dated 26-12-1989 and directed the respondents to treat the appellant to have validly withdrawn his proposal for voluntary retirement with effect from 31-1-1990. The net result of this order is that the appellant will have to be treated to be in service till the date of his superannuation which is said to be somewhere in 1994 when he completed 58 years of age. The respondent-authorities will have to make good to the appellant all monetary benefits by treating him to have continuously worked till the date of his actual superannuation in 1994. This entitles him to get all arrears of salary and other emoluments including increments and to get his pensionary benefits refixed accordingly. However, this will have to be subject to adjustment of any pension amount and other retirement benefits already paid to the appellant in the meantime up to the date of his actual superannuation.”

4. Thus, it is settled law that that the person who was willing to serve, but was prevented from doing so on account of wrongful order, upon reinstatement, would be entitled to backwages and arrears of salary. Hon’ble the Supreme Court has not granted interest on the same.

5. However, we find that the learned Single Judge has also granted 8% interest per annum on the arrears. Since the petitioner had already attained the superannuation and his pension arrears and other benefits of leave encashment and other benefits have also been paid, we do not find any

reason to interfere in the judgment passed by learned Single Judge, moreso, as there is no cross appeal filed by the respondent-State, it is informed that the cross appeal filed by the Management has been dismissed by this Court as well as by Hon’ble the Supreme Court.

6. Accordingly, the appeal is dismissed.
7. Pending applications, if any, shall also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

April 29, 2024
G Arora

(SUDEEPTI SHARMA)
JUDGE

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