
(2000) 10 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11254 of 1999

Damodar Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 10-10-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Industrial Disputes Act, 1947 — Section 33(2)

Citation : (2000) 10 P&H CK 0088

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Mr. Gurnam Singh, for the Appellant; Mr. Anil Sharma, D.A.G., for the Respondent

Judgement

S.S. Sudhalkar, J.—The petitioner is a workman of respondents No. 2 and 3. He filed an application u/s 33(c)(2) of the Industrial Disputes Act (hereinafter referred as the Act) for computation of monetary benefits. The said application was decided by the Labour Court on 4.4.1994 and it was held that the petitioner's claim stood computed to the tune of Rs. 15731/- and also held that he is entitled to the claim since the period from his reinstatement i.e. 15.11.1984 onwards to which he is obviously entitled to because he was still in service.

2. Earlier on 14.11.1984, the petitioner was terminated and the Labour Court by its award dated 8.9.1989 ordered reinstatement of the petitioner in service with back wages. The respondents had filed C.W.P.No. 7990 of 1991 challenging the award of the Labour Court which was also dismissed. A Division Bench of this Court, while dismissing the said petition of the respondents ordered as under :-

"Dismissed with the observations that the question of computing the backwages would be determined u/s 33-C(2) of the Industrial Disputes Act, keeping in view the fact trial after the work man was re-employed by the management he is not to be paid backwages."

3. Thereafter, application u/s 33(c)(2) of the Act was given which was decided by the order dated 4.4.1994. In spite of the decision of this application, the amount was not released and, therefore, the petitioner gave notice dated 25.2.1999 (copy Annexure P/4). In the written statement, respondents have stated that the amount of Rs. 15731 /- has already been ordered. It is contended in para 6 of the written statement that respondent No. 3 processed the case of the petitioner under the rules and passed order dated 25.6.1996 for making payment of Rs. 15731/- and that the delay took place due to the reasons that the petitioner was transferred from Ludhiana to Chandigarh depot of Punjab Roadways and, therefore, there is no intention in delay.

4. We have heard learned Counsel for the parties.

5. We do not find that the delay in payment of the amount could be said to be reasonable. A person has to fight and fight and then get the amount. If a department of a State Corporation commits such a delay, what can be expected to be the fate of his workman ? Only because the workman was transferred from one depot to another, it cannot be said that delay in making payment was justified. Actually the State and departments of the State or State Corporations should see that their cases should not be taken to the court without valid reason. We find, therefore, that the respondent has neglected to pay the amount for a long time. It also found from the written statement of the respondents itself that order was passed on 25.6.1996 for making payment of Rs. 15731/-. However, it is further found from the reply to para 7 of the petition that respondents have mentioned that the amount of Rs. 15731/- has been made on 8.3.2000 i.e. much after the filing of the petition.

6. The petitioner has cited various authorities. In the case of O.P. Gupta v. Union of India and others, reported in 1987(5) S.L.R. 288 it has been held by the Supreme Court that when there was delay in payment of pension, the practice is to allow 12% interest on delayed payments and there is no reason to depart from this practice.

7. Here in this case also there is no cogent reason for not paying the amount. Moreover, it appears from the written statement itself that the amount was sanctioned for payment in the year 1996 and paid in the year 2000. What can be expected of this department which is not able to implement its own order ? This is a case of gross delay. We, therefore, hold that the petitioner is entitled to interest on the delayed payment upto to the date of payment. Of course this interest will be restricted for the period of 3 years and two months prior to the date of filing of this petition.

8. As a result, we allow this writ petition and direct respondents to pay interest at the rate of 12% per annum on the amount of Rs. 15731/- upto the date of payment. However, the amount is restricted to the period of three years and two months prior to the date of filing of this writ petition which was filed on 11.8.1999. It is further ordered that if the amount is not paid within a period of

two months from today, the respondents shall pay the interest at the rate of 12% on the said amount.

9. Petition allowed.