

(1999) 05 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 1458 of 1986

Pritam Singh

APPELLANT

Vs

Presiding Officer, Labour Court, U.T. Chandigarh and another

RESPONDENT

Date of Decision : 18-05-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (1999) 123 PLR 105

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : K.L. Arora, for the Appellant; G.S. Gill, for the Respondent

Judgement

V.S. Aggarwal, J.—Petitioner Pritam Singh had filed this writ petition for directing respondent No. 2 to pay interest at the market rate from the date arrears were due and to that effect modify the award of the Presiding Officer, Labour Court, Chandigarh.

2. The relevant facts are that the petitioner had submitted an application u/s 33-C(2) of the Industrial Disputes Act, 1947 (for short "the Act") for recovery of arrears of salary. It was maintained by him that he was appointed as Clerk on July 15, 1974 and was confirmed on July 15, 1975. He was the senior-most clerk in the Haryana Land Reclamation and Development Corporation Limited, Chandigarh. Certain persons junior to him were promoted. On June 9, 1981, the petitioner was promoted as Assistant. He made a representation. The petitioner was given promotion with retrospective effect from August 3, 1977 but was not paid the arrears from August 3, 1977. He claimed that he should be paid the arrears and also interest should be awarded.

3. The Labour Court issued notice. The respondent contested the same asserting that the provisions of Section 33-C(2) of the Act are not attracted. It was admitted that the petitioner was promoted as Assistant on June 9, 1981. The decision regarding the arrears had be taken later on. On September 19, 1983 it

was decided that the petitioner shall not be entitled to any arrears.

4. The learned Labour Court vide the impugned award held that the petitioner had been promoted with retrospective effect, therefore he is entitled to arrears. The respondent was directed to pay the arrears within two months.

5. The grievance of the petitioner is that his arrears had been withheld without any valid reason and, therefore, the petitioner is entitled to interest.

6. On behalf of the respondent No. 2, it had been contended that u/s 33-C(2) of the Act, the Labour Court could not award interest.

7. Section 33-C(2) of the Act reads as under :

"Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months.

Provided that where Presiding Officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing extend such period by such further period as he may think fit."

8. A perusal of Section 33-C(2) of the Act clearly shows that specifically there is no mention that interest can be awarded with respect to the arrears. In support of his claim, the respondent relied upon the decision of the Delhi High Court in the case of Union of India v. The Presiding Officer, Central Government Labour Court and another 1984(2) SLJ 576(HC), wherein it was held as under :

"Learned counsel for the workman submits that the deputation allowance became due to the workman in 1974 and the same has not been paid as yet. He submits that the petitioner should be directed to pay 12 per cent interest from the date the amount became due and payable till realisation. He refers to Gammon India v. Niranjan Dass, wherein it has been observed that the workman was unlawfully kept out of service and, therefore, it was just that the employer should pay all arrears with 12 per cent interest. That was a case of retrenchment. The present proceedings are u/s 33C of the Act. The jurisdiction of the Labour Court u/s 33-C(2) of the Act is only to compute the benefit and not to confer any new benefit. I, therefore, do not find any reason to direct payment of any interest on the amount due to the workman on account of deputation allowance."

9. I am afraid the ratio of the cited decision cannot be made applicable to the present case because the arrears have been withheld without valid reason. The arrears that are due to an employee it cannot be treated as a bounty to be distributed by the Government to its employees. It is a valuable right and

property in the hand of the employee. When there is delayed payment, the employee concerned is entitled to interest.

10. Very close to the facts of the present case is the decision of this Court in the case of Mohinder Singh v. State of Punjab & Others 1998(1) RSJ 497. It was held that delayed payment to the employee makes him entitled to interest.

11. In the present case in hand, as referred to above, though it was decided that decision as to whether arrears have to be paid or not is to be taken later on, but finally in September, 1983 it was decided that arrears are not to be paid. There was no valid reason for doing so. The petitioner had been promoted retrospectively and thus he is to be given the arrears as such. Consequently, when arrears of the petitioner were withheld for no valid reason, this Court finds that petitioner was entitled to interest. Accordingly it is directed that from September 19, 1983 on the amount that was due as arrears, the petitioner would get interest at the rate of 10% per annum. The payment should be made within three months from today.