
(2000) 11 P&H CK 0157
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 10970 of 1999

Rattan Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 02-11-2000

Acts Referred:

Citation : (2000) 11 P&H CK 0157

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

Bench : Division Bench

Advocate : Ashwani Bakshi, for the Appellant; Mr. Raghubir Chudhary, Senior DAG., for the Respondent

Judgement

S.S. Sudhalkar, J.—The petitioner had approached the Labour Court, Rohtak for getting his pay and allowances as a Chowkidar. The Presiding Officer of the Labour Court, Rohtak, vide his order dated December, 12, 1995 gave relief to the petitioner in the following terms:

"In view of my finding on the above issue I accept the claim application of the workman and direct the management to pay Rs. 1,26,300/- to the applicant. However, the parties are left to bear their own costs."

2. After the order was passed by the Labour Court, Rohtak, respondent Nos. 3 and 4 filed the writ petition and obtained stay of the order of the Labour Court. The writ petition was dismissed on May 12, 1997. The petitioner, thereafter, approached the office of respondent Nos. 3 and 4 (as stated in paragraph 4 of the written statement of respondent Nos. 3 and 4) on June, 9 1997. The amount as per the order of the Labour Court was paid on October 26, 1999.

3. We have heard learned Counsel for the parties.

4. Counsel for the respondents has argued that the amount, as prayed by the petitioner, has already been paid and therefore, this writ petition has become infructuous.

5. Counsel for the petitioner has argued that the petitioner has not only claimed the principal amount but also interest in the writ petition and he drew our attention to the prayer clause to the writ petition which shows that he has claimed the amount along with interest.

6. Counsel for the respondents has argued that it took time to get the certified copy of the order passed by a Division Bench of this court and therefore, the payment could not be made. However, the admission in paragraph 4 of the written statement of respondent Nos. 3 and 4 goes to show that after dismissal of the writ petition, the petitioner had sent a legal notice dated June 9, 1997. It took time upto October 26, 1999 after giving notice to the respondents to make payment of the amount. No logical reasons can be expected for the delay in making payment of the amount. The petitioner was required to file the writ petition for getting the amount. Inaction of the respondents certainly cannot be ignored. There was no reason why he should have been subjected to the loss of interest over that amount. The respondents, who deprived the petitioner of the amount kept the same with them, enjoyed the fruits of the same and therefore, enjoyed the interest over the said amount. We are supported by an observation from the principles discussed and laid down by a Division Bench of Gujarat High Court in *Bhanu Prasad Maganlal Bhatnagar v. Pravin Tapubhan Naik and others* 1981(22) G L R 1271, it is observed herein as under :-

".....Insurance Company which is liable to pay the insured amount immediately would secure the benefit of the user of the said sum for the period during which the litigation remains pending in the Court. In other words, the insurer does earn interest on the amount which is payable at once but is paid after a lapse of years. Thus, it is the insurer who benefits by the delay occasioned in the Court. And is, therefore, but just and proper that the insurer is saddled with the liability to this extent and is obliged to discharge the burden in respect of the item of interest....."

7. Therefore, the amount which should have been paid by the respondents on the date of the order of the Labour Court was not paid by them. They enjoyed the user of the same and deprived the petitioner of the same. Therefore, they will be liable to pay interest to the petitioner. However, in view of the fact that there was a stay and the dismissal of the writ petition was brought to the notice on June 6, 1997, we award the interest from June, 6, 1997 till the date of payment, i.e. October 26, 1999. The petitioner has not mentioned the period for which he is claiming interest.

8. In view of the above reasons, we allow this writ petition and award simple interest at the rate of 12% per annum on the amount of Rs. 1,26,300/- from June, 9, 1997 till the date of payment, i.e. October 26, 1999. The concerned respondents shall make payment to the petitioner within a period of two months failing which they shall be liable to pay further interest at the rate of 12% per annum on the interest amount awarded.

Copy of this order be given dasti on payment to the learned Counsel for the parties.

9. Petition allowed.