
(2020) 11 SHI CK 0127
In the High Court Of Himachal Pradesh
Case No : Execution Petition No. 43 Of 2020

Shiv Singh Sen

APPELLANT

Vs

State Of Himachal Pradesh & Others

RESPONDENT

Date of Decision : 13-11-2020

Acts Referred:

Citation : (2020) 11 SHI CK 0127

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : S.P. Chatterji, Desh Raj Thakur, Mukul Sood

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. Grievance of the petitioner is that consequential benefits in compliance of order dated 14.11.2018 passed by erstwhile H.P. State Administrative Tribunal in O.A. (M) No.647 of 2018, titled as Shiv Singh Sen vs. State of Himachal Pradesh & others, have not been extended to the petitioner as interest on the delayed payment has been calculated from later date than the date of retirement of the petitioner.

2. Learned counsel for the petitioner submits that vide order dated 14.11.2018, erstwhile Tribunal has directed the competent authority that subject to verification and on finding the petitioner to be similarly situate to the petitioner in CWP No.3050 of 2014, titled as Nek Ram vs. State of Himachal Pradesh and others, benefit of the said judgment shall also be extended to the petitioner herein alongwith consequential benefits, if any, as per law.

3. According to learned counsel for respondent No.3, consequential benefits and quantum thereof, including due interest payable not been adjudicated by the erstwhile Tribunal. He further submits that though in Nek Ram's case 9% per annum interest was ordered to be paid to the petitioner therein from the due

date, however, as per respondent No.3 case of the petitioner is not similarly to Nek Ram's case as in Nek Ram's case there was no criminal or Departmental proceedings pending against Nek Ram, whereas, in present case benefits of the petitioner were withheld for pendency of Departmental proceedings and criminal case against him.

4. Merits of the claims and counter-claims which have not been adjudicated by the erstwhile Tribunal are not to be evaluated by the Executing Court. Rightly or wrongly respondent No.3 has extended consequential benefits with respect to payment of interest to the petitioner. In view of submission made on behalf of respondent No. 3, correctness thereof is to be determined in substantive petition.

5. Therefore, present petition is closed and disposed of with liberty to the petitioner to file an appropriate petition, for adjudication of quantum and due date of consequential benefits payable to him, if any, in accordance with law.

6. Needless to say that respondent No.3 would also be entitled to raise all legal and just pleas with respect to their claim, if any, as put forth in the reply, by filing reply to the petition if any so filed and the said petition shall be decided by the competent Court, in accordance with law, on its own merit, without being influenced by any observation made in this petition. Pending application(s), if any, also stand disposed of.