

(2014) 04 P&amp;H CK 0258

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Civil Writ Petition No. 6464 of 2014

Ravi Shankar Garg

APPELLANT

Vs

The State of Haryana

RESPONDENT

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**Date of Decision:** April 3, 2014**Citation:** (2014) 175 PLR 484**Hon'ble Judges:** Augustine George Masih, J**Bench:** Single Bench**Advocate:** Sandeep Panwar, Advocate for the Appellant**Final Decision:** Allowed

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**Judgement**

Augustine George Masih, J.

Petitioner has approached this Court for quashing of the enquiry report dated 18.02.2012 (Annexure P-12) and the order dated 06.03.2013 (Annexure P-15), vide which recovery of Rs. 85,334/- is sought to be effected from him along with 8% interest. It is the contention of the counsel for the petitioner that the departmental enquiry was initiated against the petitioner and three others in the year 1996. The enquiry report was submitted by the Enquiry Officer on 18.02.2012 after an inordinate delay. In the said enquiry, all four officers have been held responsible. The Junior Engineer, who was working under the petitioner, has since expired and two Executive Engineers, who were charge-sheeted and were found guilty along with the petitioner, have not been punished on the ground that they have retired from service. Petitioner has also retired from service and, therefore, no recovery can be effected from him. He further contends that the amount of interest imposed upon the petitioner on the recovery of Rs. 85,334/- cannot be imposed as the delay was on the part of the department in concluding the departmental proceedings. He, thus, contends that the impugned order dated 06.03.2013 (Annexure P-15) cannot sustain.

2. The contention of the counsel for the petitioner that the petitioner has been discriminated against vis-à-vis other three employees against whom no recovery

has been effected, cannot be accepted in the light of the fact that the Junior Engineer has already died and the two Executive Engineers, who were held guilty along with the petitioner, were found by the punishing authority in its order dated 06.03.2013 (Annexure P-15) to be not responsible for spoiling of the cement as the store where the cement was stored was maintained and was under the petitioner, who was the then Sub Divisional Officer, and Junior Engineer. The Sub Divisional Officer is primarily responsible for keeping proper care over the custody and handling of the Government store and, therefore, petitioner was held responsible for this negligence on his part. It, therefore, cannot be accepted that the petitioner has been discriminated against.

3. The plea as regards the interest imposed upon the petitioner on the amount of Rs. 85,334/- to be recovered cannot be accepted as there was no delay on the part of the petitioner and rather the delay was on the part of the department itself in concluding the departmental proceedings for which the petitioner cannot be penalized.

4. Notice of motion.

5. On the asking of Court, Mr. Harish Rathee, Sr. DAG, Haryana accepts notice on behalf of the respondents.

6. Mr. Rathee contends that the interest as has been imposed by the punishing authority is fully justified as the recovery amount had it been recovered in 1996 when the proceedings were initiated would have fetched some interest and it is to balance the same that the order of recovery with interest has been passed.

7. This contention of the counsel for the State cannot be accepted as the delay in the departmental proceedings is attributable to the department itself for which the petitioner cannot be penalized.

8. In view of the above, the present writ petition is partly allowed. The impugned order dated 06.03.2013 (Annexure P-15) to the extent of imposition of interest at the rate of 8% upon the petitioner on the recovery amount of Rs. 85,334/- is set-aside.

9. Counsel for the petitioner submits that the petitioner was entitled to the release of gratuity on finalisation of his departmental proceedings on 06.03.2013, whereas the gratuity has been released to him in December, 2013, for which the petitioner is entitled to interest on delayed payment. This contention of the counsel for the petitioner is justified and, therefore, direction is issued to the respondents to release interest at the rate of 8% from 07.04.2013 till the date of disbursement. This amount be calculated and released to the petitioner within a period of one month from the date of receipt of certified copy of the order.