IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 **Civil Writ Petition No.21487 of 2013**
Date of decision: 27.03.2015

Kaushalya Rani ....Petitioner

versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

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Present: Mr. Rakesh Nagpal, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release interest on the delayed payment of retiral benefits including GPF, leave encashment, DCRG etc.

Learned counsel for the petitioner submits that the husband of the petitioner retired on 31.03.2011 but he was not paid retiral pensionary benefits and ultimately husband of the petitioner expired on 19.05.2011. Petitioner being the wife of the deceased-employee, served a legal notice upon the respondents on 29.10.2011 but only, payment of an amount of Rs.22,567/- was released to the petitioner on 25.06.2012 but no interest was paid on the delayed payment. Learned counsel also submits that the petitioner is entitled for interest on delayed payment as there was no fraud on the part of the husband of the petitioner. Learned counsel has also relied upon judgment of this Court in **'Kuldip Rai vs. State of Punjab and others' in CWP No.23143 of 2012** decided on 07.07.2014 as well as Full

Bench judgement of this Court in case **A.J. Randhawa Supdg. Engineer(retd.) vs. State of Punjab, 1997(3)RSJ 318.**

Learned State counsel submits that the delay occurred as 'No Due Certificate' was to be obtained from various circles/stations where the husband of the petitioner remained posted. On completion of all formalities, the payment was released and delay occurred as the department remained busy in dealing with wheat and paddy crops. The payment has been released on 20.01.2012, 02.02.2012 and 04.04.2012 i.e. within 8 to 12 months and it cannot be said to be an inordinate delay in any manner. Learned State counsel also submits that there was no intentional delay on the part of the Department.

Heard arguments advanced by learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on record.

Admittedly, the husband of the petitioner was working as Junior Auditor in the respondent-Department and he retired on 31.03.2011. Thereafter, he expired on 19.05.2011 in a road accident. It is also not disputed that a legal notice was served upon the respondents on 29.10.2011 for payment of retiral benefits, due to the deceased-husband. Some of the benefits were released to the petitioner and some were released subsequently. The petitioner again served a legal notice for payment of interest on delayed payment but only an amount of ₹ 22,567/- was released to the petitioner on 25.06.2012.

The petitioner is claiming interest on delayed payment in view of ratio of judgment of Full Bench of this Court in case of **A.S. Randhawa vs. State of Punjab and others 1997(3)SCT 468** and the observations made therein are reproduced as under:

> *"The duty of the State to disburse pension immediately on the retirement of an employee has a statutory recognition and it is so enjoined in Rule 9.1; of the Pension Rules (as applicable in the State of Haryana) which is in the following terms :-*
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> *"All authorities dealing with applications for pension under these rules should bear in mind that delay in the payment of pensions involves peculiar hardship. It is essential to ensure, therefore, that a Government employee begins to receive his , pension on the date on which it becomes due.*
>
> *Note :- In order to prevent cause for complaint on the part of pensioner, it is most important that pension cases should always be given as high a degree of priority as is possible."*
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> *The Pension Rules in Punjab also provide that lest there is any delay in disbursing pension to a retiring employee the procedure for the payment thereof and the work of preparation of pension papers should commence two years before the due date of retirement of the employee. Reference in this regard may be made to Rule 9.3 and other related rules contained in Chapter IX of the Punjab Civil Service Rules Vol.11 as applicable in the State of Punjab.*
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> *Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months front the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of*

his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%."

In the present case also, the payment of retiral benefits were held up due to delay in procurement of 'No-dues Certificate' whereas the respondent-Department was under an obligation to complete all the formalities well in time but the delay in getting 'No-dues Certificate' was unintentional and without any mala fide reason but delay is there and the petitioner is held entitled for interest.

Under such circumstances, the petitioner deserves to be paid interest in view of ratio of Full Bench judgment of this Court in **A.S. Randhawa's case**(supra). Undisputedly, the delay has occurred as certain formalities were not got completed which should have been completed within a reasonable time i.e. in 2-3 months after the retirement.

Accordingly, keeping in view the facts and circumstances of the present case, the present petition is allowed and the respondents are directed to pay interest @ 9% p.a. after a period of 03 months from the date of retirement of the petitioner till the payment was released. The amount of interest be calculated and the payment be made within a period of one month from the date of receipt of certified copy of this order.

(DAYA CHAUDHARY)
JUDGE

March 27, 2015
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