

**CWP No. 2312 of 2015**

**210**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP No. 2312 of 2015 (O&M)**

**Date of Decision: 13.07.2016**

***ALISHPA KUMARI***

***... Petitioner***

**VS.**

***STATE OF PUNJAB AND OTHERS***

***..Respondents***

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Gagneshwar Walia, Advocate  
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

\*\*\*\*

1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

**KULDIP SINGH (J.)**

Billa Masih, father of the petitioner was working as Safai Sewak (Sweeper) in the office of respondent No. 2. He had died in harness on 07.05.1999. Thereafter, his wife, Usha Rani was appointed as Safai Sewak/ Sweeper on compassionate ground who also expired on 01.01.2010. The petitioner, Alishpa Kumari (minor) daughter of Usha Rani, is the only legal heir and she claimed the retiral benefits including family pension, leave encashment, provident fund, family pension etc.

Previously, the petitioner had approached this Court through a civil writ petition bearing No.16054 of 2013 and this Court vide order dated 26.7.2013 directed the respondents to pass the speaking order. The said speaking order dated 11.10.2013 (*Annexure P-7*) was accordingly passed, stating that the matter could not be processed as the petitioner has not submitted the guardianship certificate.

**CWP No. 2312 of 2015**

After considering the rival submissions of both the parties, it comes out that all the benefits have been released to the petitioner including

family pension in pursuance to the orders dated 31.03.2015 and 30.05.2016 passed by this Court. Now, only question survives for consideration is as to whether the petitioner is entitled to the interest on delayed payment or not?

On behalf of the respondent, it is sought to be projected that since guardianship certificate or dependency certificate was not produced by the petitioner, therefore, the matter could not be processed. Reliance has been placed on the letter dated 20.02.2014 (*Annexure P-8*) issued by the office of the Accountant General, in response to the letter dated 21.01.2014 sent by the Executive Engineer, Madhopur Division, UBDC, Gurdaspur, the Accountant General has directed for submission of the following documents: -

1. Dependent Certificate issued by the concerned Deputy Commissioner may be sent.
2. Death certificate of her father and mother may also be sent to this office.
3. Proof of date of birth of Miss Alishpa may also be supplied.
4. Guardian certificate obtained from the Court may also be supplied.

It is stated that due to non production of the dependency certificate and guardianship certificate, the matter could not be processed.

I am of the view that when the petitioner is of minor age of 13 years only, she is not expected to decide, who will be her guardian and then ask the guardian to apply for pensionary benefits. The department should have processed the matter itself on basis of service record of parents of petitioner and deposited the amount in the account of the minor. They could not withhold it until the minor become major.

**CWP No. 2312 of 2015**

It being so, I am of the view that the said benefit should have been released immediately after the death of the mother of the petitioner, therefore, for the delayed payment, the petitioner is entitled for the interest @ 9% per annum which is payable after the two months from the date of the death of the mother of the petitioner till the date of actual payment.

The petition stands allowed accordingly.

**July 13, 2016**

Suresh Kumar

**[ KULDIP SINGH ]  
JUDGE**