

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 260

Civil Writ Petition No.12977 of 2015 (O & M)
Date of Decision: November 28, 2017

Mehakpreet Kaur @ Mehak & another

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

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

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PRESENT: - Mr. Amrik Singh, Advocate, for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab.

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Jaspal Singh, J

1. The instant writ petition has been preferred by the petitioners under Article 226 of the Constitution of India, seeking issuance of a writ in the nature of mandamus, directing the respondents to release pension and other arrears along with interest @ 18% per annum, on account of death of father of the petitioners on October 18, 2009, which has not been paid to the petitioners.

2. Father of the petitioners, namely, Bharpoor Singh was working as *Patwari* in Tehsil Payal. He died on October 18, 2009 leaving the petitioners along with other legal heirs including mother, brother and grandmother of the petitioners. Meantime, Manpreet Kaur wife of Bharpoor Singh (father of the petitioners), who was entitled for family pension and

other retiral benefits also expired on November 20, 2009. As per the reply filed on behalf of respondents No. 1 to 3, petitioner No.2 is not entitled to any benefit, as she is married and lost her dependency. As far as petitioner No.1 is concerned, an amount of ₹ 2,42,000/- towards leave encashment and ₹ 1,17,886/- towards GP Fund have been disbursed to her through voucher Nos.374 dated June 28, 2010 and 50 dated May 31, 2011. Besides, *ex-gratia* grant amounting to ₹ 50,000/- has also been paid through voucher No.416 dated January 31, 2011 to the legal heirs of Bharpoor Singh. Insurance, amounting to ₹ 30,000/- was paid through voucher No.72 dated July 27, 2010.

3. Learned counsel for the petitioners has admitted the aforesaid contents of the reply. Consequently, the petition has been rendered infructuous as far as the grant of pensionary benefits on account of death of father of the petitioners is concerned.

4. The only question which requires to be determined in the instant petition is whether petitioner deserves the grant of interest on the delayed payment of various retiral benefits and the answer to this question is in the affirmative in view of service rules/ instructions as well as various judgments of this Court as well as that of the Hon'ble Apex Court.

5. Undisputably, a writ in the nature of Mandamus is also legally maintainable seeking grant of interest on the delayed payment in view of law laid down by the Hon'ble Apex Court in ***Vijay L. Malhotra vs. State of U.P., 20004(4) SCT 267*** as well as Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab & others, 1997(3) SCT 468*** wherein it has further been categorically observed that in case of delay in payment of retiral benefits, interest has to be paid. However, interest may vary from case to

observed that a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules and simultaneously a duty is cast upon the State to ensure the disbursement of pension and other benefits to the retiree in proper and reasonable time. However, the reasonable and proper time for release of the pension has also been held to be three months from the date of retirement or the accrual of cause of action. In ***State of Kerala vs. M. Padmanabhan, AIR 1985 SC 356; D.D. Tewari (D) through LRs vs. Uttar Haryana Bijli Nitran Nigam Ltd., 2014(4) S.C.T. 128; A.S. Randhawa vs. State of Punjab (supra); J.S. Cheema vs. State of Haryana & others, 2014(3) RCR (Civil) 355; and Manohar Lal vs. State of Punjab & others, 2016(4) SCT 250*** as well as judgment of Madhya Pradesh High Court in case ***Sudha Chhipa & others vs. State of M.P. & others, 2014 LIC 2125***, it has been held that normally payment of retiral benefits should not be delayed more than three months from the date of retirement and all the benefits should be extended within the aforesaid stipulated period. Further, where there is a considerable delay, pensioner deserves to be compensated by way of grant of interest as per the service rules/ regulations as well as Government instructions issued from time to time and various judgments, referred to above.

6. There is no reason what to talk of any plausible reason or justification for delayed disbursal of retiral benefits of deceased. A question arises as to the period in which the retiral benefits should be disbursed to the retiree/LRs of deceased employee. At the most, the respondents could have taken a period of three months from the date of retirement/date of death of employee during which the payment of retiral benefits should have been disbursed to the petitioners.

7. As per Instructions dated May 10, 1990 issued by the Government of Punjab, Department of Finance (Finance Personnel III Branch), interest @ 9% per annum shall be paid on all delayed payment of pension and DCRG for the period beyond three months after these benefits become due to the end of the month preceding the month in which the orders for making actual payments are issued to the pensioners concerned.

8. Taking into consideration the facts & circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment after expiry of three months from the date of death of Bharpoor Singh till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment of various retiral benefits w.e.f. January 18, 2010 to actual date of payment, which shall be paid by the respondents after calculating the same within a period of three months from the date of receipt of certified copy of this judgment.

9. Disposed of.

November 28, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No