

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18766 of 2017 (O&M)
DECIDED ON: SEPTEMBER 21, 2017

KAUSHALYA RANI

.....PETITIONER..

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Manpreet Singh Longia, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

CM-13524-CWP-2017

Application is allowed as prayed for. Representation dated
07.06.2017 (Annexure P-19) is taken on record, subject to all just exceptions.

Be tagged at appropriate place.

CM stands disposed of.

Main case

Through instant petition preferred under Article 226 of the
Constitution of India, petitioner has sought issuance of a writ in the nature of
mandamus, directing the respondents to release the balance amount of gratuity,
arrears of pay, pension and other admissible benefits as per details provided in
Annexure P-18, in favour of petitioner, in respect of Darshan Kumar, husband

of the petitioner, who had gone missing since 30.08.2007 and has been declared to be dead person by Civil Court decree dated 29.04.2016 (Annexure P-17). AND further to pay interest @ 10% per annum on arrears of amount of gratuity, arrears of pay, pension and other admissible benefits as per letter dated 10.05.1990 issued by Government of Punjab.

2. The contention of learned counsel for the petitioner is that the husband of petitioner was posted as Clerk and was promoted as Junior Assistant and was to retire on 31.08.2008 but prior to the date of his superannuation, the whereabouts of the husband of the petitioner were not traceable. Though, under the Rules and Instructions of the Government all the benefits are required to be released to the petitioner within a period of one year from the date of missing but till date i.e. after the expiry of more than 9 years, no final decision has been taken by the concerned authority, despite the fact that a direction was given earlier in view of the undertaking given by the Executive Officer for the release of the benefit. Even, the petitioner has also secured declaration from the Civil Court vide judgment and decree dated 29.04.2016 that since, husband of the petitioner has not been heard for continuously for a period of 7 years, he is presumed to be dead. Moreover, latest representation dated 07.06.2017 (Annexure P-19) was also moved by the petitioner but till date no conscious decision has been taken by the concerned authorities.

3. Accordingly, instant petition is disposed of with a direction to respondent No.4-Executive Officer, Municipal Council, Ropar to look into the grievances unfolded by the petitioner in her representation dated 07.06.2017 (Annexure P-19) and to take a conscious decision, by passing a speaking order,

within a period of two months from the date of receipt of certified copy of this order. In case, the concerned authority comes to the conclusion that petitioner is entitled to the relief claimed for, to release the same within a period of next one month. The grant of interest on delayed payment be also considered in view of the observations made by Full Bench judgment of this Court in case captioned as “*R.S. Randhawa vs. State of Punjab, 1997 (3) RSJ 318*.”

4. However, in case, the petitioner still feels aggrieved of the order passed by respondent(s), she shall be at liberty to approach this Court.

SEPTEMBER 21, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes/No*