IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 113

Civil Writ Petition No.24034 of 2017
Date of Decision: *October 25, 2017*

SONA DEVI

…… PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

….. RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. J.P. Rana, Advocate,
for the petitioner.

. . .

Jaspal Singh, J

1. By virtue of this civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Certiorari, quashing the order passed by respondent No.2 dated January 12, 2017 (P-6) whereby the representation dated November 28, 2016 (P-5) which was submitted in view of order dated November 15, 2016 (P-4) passed by this Court to make a representation to respondent No.2, which was to be decided by respondent No.2 by passing a speaking order but respondent No.2 rejected the same without passing any speaking order and denied the interest on delayed payment of dues of deceased husband of the petitoner without assigning any reason and further issuance of a writ in the nature of Mandamus directing the respondents to grant the interest on dues of deceased husband of the petitioner @ 12% per annum

from the date of death i.e. November 29, 2006 to till the date of payment i.e. August 04, 2015 & December 02, 2015.

2. At the very outset of the arguments, it has been submitted by learned counsel for the petitioner that all the retiral benefits have already been released/disbursed to the petitioner after a considerable delay but no interest on delayed payments has been paid by the respondents.

3. As regards grant of interest on delayed payment of retiral benefits, learned counsel for the petitioner has submitted that interest on delayed payment has not been awarded, to which, petitioner is legally entitled. A writ in the nature of mandamus is legally maintainable for giving a direction to make the payment where it is justified in view of judgment delivered in ***A.S. Randhawa vs. State of Punjab & others, 1997 (3) SCT 468*** as well as ***Vijay L. Mehrotra vs. State of U.P., 2000(4) SCT 267***. Gist of aforesaid judgment in the case of ***A.S. Randhawa (supra)*** is that a writ for direction to pay retiral benefits including interest is maintainable and that pensionary benefits, if released after a delay, entitles the incumbent to interest at the rate of 12%, which may even go upto 18% per annum. In case ***Vijay L. Mehrotra (supra)***, the Hon'ble Apex Court, while considering the appeal only on the question of grant of interest on the delayed payment of retiral dues, has observed that in case of delay of payment, interest has to be paid on the delayed payment of retiral dues, in case there is no reason or justification for not making payment. It observed:

> *"3. In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.*

> *4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay to the appellant within 12 weeks from today simple interest at the rate of 18 per cent with effect from the date of her retirement, i.e. 31-8-1997 till the date of payments."*

4. Similarly, in case ***Ex. Capt. R.S. Dhull vs. State of Haryana, 1998(2) SCT 729***, the Hon'ble Supreme Court observed that the retiree is entitled to interest @ 12% per annum on the withheld GP Fund and Gratuity etc. from the date the same became payable to him on his attaining the age of superannuation till the date the payment is made to him.

5. Adverting to the facts of the case, husband of the petitioner Sh. Chattar Singh appointed as a Patwari and died serving on duty on November 29, 2006. During the period of his service, an FIR No.13 dated 17.09.1997, under Section 7 and 13 of the Prevention of Corruption Act, Police Station SVB, Ambala was registered against him. Then, husband of the petitioner preferred an appeal before this Court and he was acquitted in the said case vide order dated 01.09.2014. During his service, no departmental inquiry was initiated against the husband of the petitioner. After the death of Sh. Chattar Singh, petitioner approached the office of respondent No.2, for release of family pension and other benefits including gratuity. The petitioner visited the office of the respondents several times, yet her case had been put off on one pretext or another. Then petitioner had instituted a writ petiton bearing CWP No.15165 of 2011, which was disposed of vide order dated 23.12.2014 with a direction to the competent authority to take a decision on the legal notice dated 15.12.2010, by passing

a speaking order, within a period of two months from the date of receipt of a certified copy of this order. In case, the relief sought by way of legal notice, is found due, the same shall be released to the petitioner within a period of two months thereafter. But respondents not released the dues to the petitioner. Petitoner served a contempt notice dated 19.05.2015 as respondents failed to comply the order dated 23.12.2014 passed by this Court and petitioner forced to file a contempt petition, which is accordingly filed vide COCP No.1559 of 2015 and during the pendency of contempt petition, respondents made the payment of dues of the deceased husband of the petitioner but the same was paid without any interest on the delayed payment. It is a settled principle that grant of interest on the delayed payment is on account of the fact that retiree/family of deceased employee was unable to enjoy its fruits immediately on his retirement/death of the employee and then a right accrues to him to be compensated and the only way to compensate him is to pay interest for the period of delayed payments. Now, a question arises as to the period in which the retiral benefits should be disbursed to the retiree/family of deceased employee.

6. In case ***A.S. Randhawa (supra)***, the Full Bench of this Court observed that 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 retiree in proper time.

7. It is also well settled that proper time for the disbursement of retiral benefits will depend on the facts and circumstances of each case but normally it would not exceed three months from the date of retirement which time limit has been laid down by the Apex Court 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***. While following the Full Bench decision in the case of ***A.S. Randhawa (supra)***, this Court in ***Amarjit Kaur vs. State of Punjab & others, 2011(1) Service Cases Today 85***, where there was delay of 16 years in payment of retiral benefits, has awarded interest @ 18% per annum on the delayed payment. Besides, Government of Haryana, Finance Department No.1/2(152) 01-2 FR II, dated February 20, 2002, has issued instructions to the effect that in cases where the delay exceeds a period of three months in settlement and payment of such retiral benefits, the same should be paid along with interest calculated from the date of retirement till the date of payment. The issue pertaining to the admissible rate of interest in these cases has also been considered. It has been observed that the interest rate regime remains volatile and it keeps on changing from time to time in view of the economic and monetary policies in force at various points in time.

8. Undoubtedly, husband of petitioner expired on 29.11.2006 and during the period of his service, an FIR No.13 dated 17.09.1997, under Section 7 and 13 of the Prevention of Corruption Act, Police Station SVB, Ambala was registered against him. Then, husband of the petitioner preferred an appeal before this Court and he was acquitted in the said case vide order dated 01.09.2014. Payment of retiral dues was made by the

respondents in the year 2015. At the most, the respondents could have taken a period of three months from the date of acquittal of her husband during which the payment of retiral benefits should have been disbursed to the petitioner(s).

9. 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 acquittal of her husband till the actual payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. December 01, 2014 to actual date of payment, which shall be paid by the respondents after calculating the same within a period of two months from the date of receipt of a certified copy of this judgment.

10. Disposed of accordingly.

October 25, 2017 **(JASPAL SINGH)**
Ankur **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No