IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.: 238

CWP No.7720 of 2016 (O&M)
Date of Decision: *September 15, 2017*

BIMLA DEVI AND OTHERS

…… PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

….. RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Kartar Singh Malik-I, Advocate,
for the petitioner(s).

Mr. Ram Tilak Redhu, Deputy Advocate General, Haryana.

Mr. Dhruv Gupta, Advocate,
for respondents No.2 to 12.

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Jaspal Singh, J

CM No.5066 of 2016

This is an application preferred under Section 151 CPC, applicant-petitioner No.1 has sought the necessary correction of husband's name i.e. Shri Bhagwan instead of Jai Bhagwan.

Heard.

Application is allowed as prayed for.

Amended memo of parties is taken on record.

CWP No.7720 of 2016

1. By virtue of this civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioners have sought issuance of a

writ in the nature of Mandamus, directing the respondents to calculate all the service period of daily wages rendered by the husband and father of the petitioners respectively for the purpose of pension and all other benefits of service along with interest according to law and rule.

2. At the very out set of arguments, learned counsel for petitioners has acknowledged the receipt of retiral benefits. Accordingly, writ petition has rendered infructuous as far as grant of retiral benefits is concerned.

3. As regards grant of interest on delayed payment of retiral benefits, learned counsel for the petitioners has submitted that interest on delayed payment has not been awarded, to which, petitioners are 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 No.1 joined the respondent - Sub Divisional Officer, H.S.E.B. Office at Yamuna Nagar, Haryana on June 01, 1980 on daily wages. His services were regularised w.e.f. May 15, 1993 as R.W.M. at Yamuna Nagar. During his service, Sh. Bhagwan was expired on December 19, 2014 when he was as a L.M. with the respondent-Department. However, retiral benefits were sanctioned to the petitioner(s) by the office of Executive Engineer City OP Division, U.H.B.V.N., Rohtak vide acknowledgment dated November 28, 2016. 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 them to be compensated and the only way to compensate them 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 No.1 expired on December 19, 2014 and payment of retiral dues was received on November 28, 2016. Payment of retiral dues was passed by the office of Executive Engineer City 'OP' Division, UHBVN, Rohtak on November 26, 2016. At the most, the respondents could have taken a period of three months from the date of retirement/family of deceased employee 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 retirement/family of deceased employee till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. March 20, 2015 to actual date of payment i.e. November 28, 2016, 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.

10. Disposed of accordingly.

September 15, 2017 **(JASPAL SINGH)**
Avin/Ankur **JUDGE**

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