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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3560 of 2013

Smt. Satrupa Bai Dewangan W/o C. R. Dewangan, aged about 61 years, R/o village Mohad, Post Mathal Dabari, Thana & Tehsil Dongargaon, District Rajnandgaon (CG) **---- Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Health Medical & Family Welfare, Mahanadi Bhawan, Raipur (CG)
2. Chief Medical & Health Officer, Rajnandgaon (CG)
3. Block Medical & Health Officer, Community Health Center Ambagarh Chowki, District Rajnandgaon (CG)
4. Joint Director, Fund & Accounts/Pension Jeewan Bima Marg, Shankar Nagar, Raipur (CG) **---- Respondents**

For Petitioner	:	Shri Ashok Patil, Advocate
For Respondent/State	:	Shri Ashutosh Pandey, P.L.

Hon'ble Shri Justice P. Sam Koshy
Order On Board

31/07/2018

The limited relief which the petitioner has sought for in the present writ petition is for grant of interest on the amount paid to her under Group Insurance Policy and Family Welfare Fund.

2. Brief facts leading to the filing of the present writ petition is that the husband of the petitioner namely Chinta Ram Dewangan was working as a male health worker under the Chief Medical and Health Officer, Rajnandgaon. Unfortunately, her husband met with an untimely death because of some ailment on 14.05.2005. The respondents released the death-cum-retirement benefits to the petitioner but for some reason, the amount of Group Insurance Policy was not released to the petitioner promptly and it was ultimately released after about 8 years from the date of death of her husband i.e. on 08.05.2013. The petitioner thus submits that while the amount was being released, the respondents ought to have paid interest on the said amount.

3. The reason assigned by the respondents for non releasing of the amount promptly under Group Insurance Scheme was that the respondents were not in possession of the passbook in which the entries pertaining to deductions under GIS were made and it was only somewhere in the year 2012-13 that correspondence in this regard was made at the behest of the Joint Director, Treasury and Accounts and the petitioner was called for her signature on the requisite documents and ultimately on 22.02.2013 the amount was released.

4. From the return submitted by the respondents itself it is evidently clear that right from the date of death of the employee i.e. on 14.05.2005 till releasing of payment on 22.02.2013, except for the correspondence which is said to have been made in the year 2012 which too is after more than 7 years from the date of death of the deceased employee, there does not appear to be any correspondence, advisory note or a note sheet or an order whereby the petitioner was called upon to come forward and comply with the formalities for releasing of the amount under GIS. Even if the passbook was with the petitioner, there does not appear to be any correspondence made by the Department to the petitioner for submission of the pass book. What also cannot be brushed aside is that even if the passbook was not available with the respondents, there would have been specific register and entry available with the Department to ascertain the deductions which were made so far as the deceased employee is concerned while he was in service. The return is totally silent in this regard also.

5. Under the circumstances, this Court is forced to draw an adverse inference against the respondent State holding that it was the State alone which was responsible for the delayed release of the amount under GIS and that there is no plausible explanation provided by the respondents with which the fault could be attributed upon the petitioner for non releasing of the amount of GIS within a reasonable period from the date of death of the deceased employee.

6. At this juncture, it would be relevant to refer to the judgment passed by this Court in WPS No. 6261/2016 decided on 27/02/2017 wherein this Court relying upon the decision of the Hon'ble Supreme Court in paragraphs 8, 9, 10 & 11 has held as under:-

> “8. It would be trite to refer to the decision of Hon'ble Supreme Court rendered in the case of D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Limited & Others [2014 (8) SCC 894], wherein, relying upon the decision in the case of State of Kerala v. M. Padmanabhan Nair [1985 (1) SCC 429], it has been held that the pension, gratuity and retiral dues payable to an employee are not a bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in its hands and any culpable delay in settlement or disbursement thereof must be visited with the penalty of payment of interest. The Supreme Court has very categorically held that denial of interest amounts to miscarriage of justice.
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> 9. Similar view has also been taken by the coordinate Bench of this Court in the case of Punarad Prasad Bhagal v. State of Chhattisgarh & Others, decided on 18.03.2013 in Writ Petition (S) No. 5231 of 2011, wherein the Court has allowed the said petition under similar circumstances.

> 10. The view of this Court stands further fortified from the decision of the Hon'ble Supreme Court in the case of State of Uttar Pradesh and Others v. Dhirendra Pal Singh [2017 (1) SCC 49].
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> 11. Considering the authoritative decisions of Hon'ble Supreme Court in the 5 cases of D.D. Tewari and Dhirendra Pal Singh (Supra), this Court is of the opinion that it is a fit case where the Petitioner is entitled for interest on the delayed payment."

7. The view of this Court further stands fortified from the recent decision of the Supreme Court in the case of ***State of Uttar Pradesh & Ors. v. Dhirendra Pal Singh [2017 1 SCC 49]*** wherein again it has been reiterated by the Surpeme Court that any delayed retiral dues and pensionary benefits paid by the department would carry interest.

8. In view of the fact that there is a delay of roughly 8 years in making payment under GIS to the petitioner, this Court has no hesitation in applying the judgment of the Supreme Court in the case of D. D. Tiwari (supra) as well as this High Court in the present factual matrix of the case and hold that the petitioner also is entitled for interest on the said amount under GIS paid to the petitioner. Accordingly, it is ordered that the petitioner shall be entitled for interest @ 9% per annum on the amount of GIS paid to the petitioner from the date of death of the deceased employee till the actual payment was made i.e. on 22.02.2013. Let necessary steps be taken in this regard for releasing of the said amount within a period of 60 days from the date of receipt of certified copy of this order.

9. The writ petition accordingly stands allowed.

Sd/-
(**P. Sam Koshy**)
Judge

Bhola