

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

LPA No.2111 of 2016 (O & M)

Date of Decision: 09.08.2018

Sunita Bali

.....Appellant

Versus

Union of India & Ors.

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Susheel Gautam, Advocate for the Appellant.

Mr. Vivek Chauhan, Advocate for the Respondents.

SUDIP AHLUWALIA, J.

The appellant happens to be the widow of late Joginder Kumar, who was working as a Head Constable/General Duty attached to the 20th Battalion, SPT Company of the I.T.B.P., and posted at Leh where he died on 9.11.1998 in an accident, while on way to Jammu for reaching home on Leave, which had been sanctioned to him.

2. The Appellant filed CWP No.14074 of 2015 for seeking directions upon the Respondents to pay interest at the rate of 18% per annum to her on the difference of amount in the Ordinary Family Pension originally paid to her and the Extraordinary Family Pension to which she was actually entitled, apart from the Ex-gratia amount of Rs.5 Lacs, which was given to her in November, 2007 i.e. after the delay of about nine years from her husband's death.

3. The Writ Petition was allowed in part by the Ld. Single Judge. It was

held that in view of the fact that the Petitioner herself had not demanded payment of the Ex-gratia and Extraordinary Family Pension from the Respondents for a long time. Her demand in this regard was made only on 5.2.2005. Therefore, the Ld. Single Judge directed the payment of interest at the rate of 9% per annum to her for the period from 5.5.2005 to 20.11.2007 (date of actual payment) after exempting a period of three months as processing time to the Respondents/Authorities, from the date of demand made by the Appellant.

4. It is to be noted that entitlement of the Appellant/Petitioner to the Extraordinary Family Pension and Ex-Gratia itself is not in dispute, as would be clear from the Memorandum No.1/12011/33/Per-3/Pension/2013 dated 6.1.2014 (Annexure P-6) issued by Respondent No.3, in which it has been mentioned that -

“2. In this regard it is being informed that employee's husband passed away on 09.11.1998 in a vehicular accident while he was coming from Srinagar to Jammu when he was deployed in 20th Unit Sri Nagar. At that time due to fault in judicial inquiry conducted by the Unit, Ordinary Family Pension was sanctioned instead of Extra Ordinary Pension and after raising an issue by her in the year 2007, C.R.O/P.A.O. has paid E.O.P. and amount of ex-gratia in 2007 rectifying this error. On this employee says that she should get the interest from the department on the above amount due to delay.”

5. In this view of the matter, we are of the considered opinion that it was incumbent upon the Respondents/Authorities themselves to have correctly determined the actual entitlements of the Appellant and for this purpose she was never required to make a specific demand of the nature of her entitlement. Consequently, the justification for the delay in releasing her actual entitlement under the guise of delayed demand made by her is not tenable. We are therefore, inclined to allow the present Appeal by holding

that she is entitled to interest on the delayed payment at the rate determined by the Ld. Single Judge (9% per annum) with effect from the month of June, 1999 instead of 5.5.2005. The intervening period between the date of her husband's death till the end of May, 1999 is allowed to the Respondents as the reasonable processing time for that purpose.

6. The Appeal is thus allowed by making the aforesaid modification in the order passed by the Ld. Single Judge.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

09.08.2018
AS

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |