

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

**CWP NO. 14693 of 2015(O&M)
Date of Decision: 27.11.2019**

Late Smt. Ram Pyari through LR

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pradeep Sharma, Advocate
for the petitioner.

Ms. Gehna Vaishnavi, Advocate
for respondents No.1 & 3.

Mr. Akshay Kumar Goel, Advocate
for respondent No. 2.

ARUN MONGA, J.(ORAL)

1. The grievance of the petitioner herein is qua non-grant of interest on the delayed payment of insurance benefits from the date of its accrual i.e. 31.03.1995.

2. It is the case of the petitioner that respondent No.2 Army Group Insurance Fund(for brevity, AGIF) illegally and arbitrarily withheld the amount of insurance in respect of her late son Sepoy Gurmit Singh.

3. In the return, respondent No.2 averred that Sepoy (Late) Gurmit Singh was enrolled in the Sikh Regiment on 11.09.1992. He disappeared from the hospital on 02.02.1995 and was declared deserter with effect from 02.02.1995. Lateron, he died on 31.03.1995. Since he ceased to be a member of Army Group Insurance Scheme, no deductions of premium in respect thereof was made by the competent authority, as such the insurance

amount was not paid. Later, the absence period of the Late Sepoy Gurmit Singh was regularized by the Unit on 26.11.2013, as such the benefit amounting to Rs.1,65,000/- and interest of Rs.9900/- was released to the mother of the petitioner. Hence, no cause of action survives for the petitioner in the writ petition.

4. Having heard learned counsel for the parties and on perusal of the record, I am of the considered view that writ petition deserves to be allowed.

5. The entire reliance placed by contesting respondent No.2 is based on the definition of deserter as contained in Army Group Insurance Scheme (Annexure R-2/3). For ready reference, the same is reproduced hereinbelow:-

“26. Deserters- No recoveries will be made by CDA(O)/PAO (OR) in respect of deserters for the period of desertion. However, if an individual is reinstated, the CDA(O)/PAO will recover the arrears of the deductions for the period of desertion.”

6. A perusal of the above would reveal that dis-entitlement of a deserter is only confined to “period of desertion”. The objection of respondent No.2 flies in the face of regularization order dated 20.11.2013 (Annexure P-4) which clearly states that period of absence of deceased Sepoy Gurmit Singh stood regularized as per the sanction accorded by the General Commanding Officer, 4 Corps.

7. The conceded position that emerges from the regularization order dated 20.11.2013 (Annexure P-4) is that Late Sepoy Gurmit Singh was erroneously declared as a deserter and the said mistake was corrected by the competent authority. It is, therefore, not comprehensible as to how

respondent No.2 can take advantage of the mistake committed by respondent No.3 of treating the deceased as a deserter, particularly when his family was given all other benefits like family pension etc., which are admissible to a non-deserter soldier who died in harness.

8. Since very period of stated desertion stood regularized, therefore, by no stretch of imagination, it can be construed that insurance benefit are not to be disbursed particularly when it came to the knowledge of respondent No.2 that insured had died on 31.03.1995. The date of death was throughout in the knowledge of respondent No.2, yet the benefit was wrongly withheld on the ground of desertion.

9. In the premise, petitioner is entitled to the interest for the delayed payment of insurance benefit with effect from the date of entitlement. The writ petition is allowed. Respondent No.2 is directed to grant interest on the delayed payment of insurance benefit, as per its circular dated 01.11.2003(Annexure R-2/4) @ 6% per annum with effect from the date when the family of Late Sepoy Gurmit Singh was disbursed the family pension and other benefits after his death, which are stated to be somewhere in June, 1995 till the date of actual disbursement.

10. No order as to costs.

(ARUN MONGA)
JUDGE

November 27, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |