

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

208

CWP No.15851-2015

Date of Decision: March 13, 2019

Sumitra Devi

.....Petitioner(s)

versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Suresh Kumar, Advocate for the petitioner(s).

Ms. Safia Gupta, AAG, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

In the present writ petition, the grievance, which is being raised by the petitioner is that the payment for which the petitioner became entitled for after the death of her husband on 05.12.2008, were released to her starting from March 2013 till July 2013. As per the facts mentioned in the writ petition, the husband of the petitioner was recruited as a Constable in the Department of Police, Government of Haryana on 06.09.1982. Thereafter, he was promoted to the rank of Head Constable in 1988 and in 1991, the husband of the petitioner was promoted as Assistant Sub Inspector. Unfortunately, husband of the petitioner was murdered on 05.12.2008, while he was posted in District Panipat. He had come to Rohtak to give evidence in a Court case, wherein he was murdered for which an FIR was registered being FIR No.340 dated 05.12.2008.

2. As per the averments made in paragraph 10, petitioner filed an application for grant of relief after the death of her husband in January 2009.

3. Learned counsel for the petitioner states that the payment of the petitioner were made only starting May 2013 onwards after the delay of more than 4 ½ years and therefore, the petitioner is entitled for interest on the delayed payment in view of settled principle of law settled by the Full Bench Judgment by this Court in case titled as “A.S. Randhawa Vs. State of Punjab, 1997(3)S.C.T.468”

4. On Notice of motion, reply was filed by the respondent. Further, the respondents were asked to file a specific affidavit as to why or on what account, the pensionary benefit of the petitioner were delayed. In an affidavit of Sh. Manbir Singh, IPS, Superintendent of Police, Panipat, dated 16.07.2018, the details of payment which were made to the petitioner have been given. The relevant paragraph of the affidavit is as under:-

“....

1. *That the petitioner's husband Late Satyaram, ASI No.415/RR was murdered on 05.12.2008 by unknown culprits near village Katwal PS Sadar Rohtak while he was posted in Police Lines Panipat. At that time he was running absent from duty vide DDR 30 dated 02.12.08 as per Roznamcha Police Line, Panipat.*
2. *The case for Sanctioning Monthly Financial (SIC) Assistance of Smt. Sumitra Devi W/o Late ASI Satyaram was sent to the office of Director General fo Police, Haryana Panchkula vide this office No.2408-09 dated 21.01.2009. The M.F.A. was sanctioned to be released to the petitioner vide DGP/Haryana Panchkula Endst. No.2948-52/W-5 dated 11.02.2009.*
3. *The Final Payment Case of General Provident Fund of Smt. Sumitra Devi W/o Late ASI Satyaram was sent to the Accountant General (A&E) Haryana Chandigarh vide this office No.6658 dated 28.01.2009 and the same was released to the petitioner vide letter No.F6/2008-09/FP/PPT/1922-25 dated 25.02.2009 received from the*

office of Accountant General (A&E) Haryana Chandigarh.

- 4. The Leave encashment for 300 days was released to the petitioner vide this office Order No.87380-85 dated 26.03.2009.*
- 5. The General Insurance Scheme amount was released to the petitioner vide this office Order No.27370-75 dated 26.03.2009.*
- 6. The Pension case of Smt. Sumitra Devi W/o Late ASI Satyaram No.415/RR was sent to the office of Accountant General (A&E) Haryana Chandigarh vide this office memo No.7106/Spl dated 08.03.13. Rupees 56134/- of gratuity amount were released to the petitioner vide AG (A&E) Haryana Chandigarh No.1113072820 dated 09.04.2013 and the rest amount 168402/- was withheld. Copy of letter is attached herewith as **Annexure R-1**. The reply to C&R was sent to A&G (A&E) Haryana Chandigarh vide this office No.14735 dated 08.05.2013. Thereafter, the rest gratuity amounting to Rupees 168402/- was released to the petitioner vide A.G. (A&E) Haryana Chandigarh No.1513078688 dated 28.05.13. Copy of letter is attached herewith as **Annexure R-2**.*
- 7. The case of payment of benefit under Ex-gratia scheme was sent to the office of the Director General of Police, Panchkula vide this office memo No.3827/SPL dated 26.07.2013 and the same benefit was released to the petitioner vide his office memo No.6418-22/W-3 dated 05.03.2014. Copy of letter is attached herewith as **Annexure R-3**. This was caused due to carelessness of the then dealing hand of this office for which departmental enquiry was initiated against him vide this office order No.20358-63 dated 24.06.2013. Copy of letter is attached herewith as **Annexure R-4**.*
- 8. In the above mentioned process, the delay in sanctioning gratuity amount has been caused due to said carelessness of the then dealing hand as well as due to the late submission of relevant documents by the petitioner”*

5. A bare perusal of the above reproduced portion of affidavit would show that upon the application filed by the petitioner on 21.01.2009, the respondent started the process for grant of relief to the petitioner in respect of the benefits which the petitioner became entitled for after the death of her husband. On 11.02.2009, monthly financial assistance was approved thereafter, the general Provident Fund of the petitioner was approved on 25.02.2009 and in March 2009, the leave encashment for 300 days were released to the petitioner. The General Insurance Scheme amount was also released to petitioner in March 2009. The pension of the petitioner was delayed by the respondents by approximately 4 years. Further, the remaining amount of gratuity amounting to Rs.56134/- was released to the petitioner in April 2013 and the rest of the amount of Rs.168402/- was withheld. The said withheld amount was released to the petitioner in May 2013. The benefit of *ex gratia* amount for which the petitioner was entitled for was released on 05.03.2014.

6. The respondents have duly admitted in their reply that it was only due to the carelessness of dealing hand, the payments were delayed for which a Departmental enquiry has been initiated against him.

7. I have heard learned counsel for the parties and have gone the record with their able assistance.

8. From the facts narrated above, it is an admitted case that the petitioner had applied for release of the pensionary benefits after the death of her husband in January 2009. Some of the benefits were released to the petitioner starting from February 2009 onwards but the pension was not released to her without any valid justification. Further, the total amount of the gratuity was also not released to her

and initially some deductions were made, which were also released by the respondents in May 2013. The carelessness and the undue delay has been admitted by the respondents in their affidavit.

9. Under these circumstances, it can be very well said that there was no valid justification for the respondents to withhold the amount for which the petitioner became entitled for upon the death of her husband in December 2008.

10. As per the law laid down by the Full Bench of this Court in case **A.S. Randhawa** (Supra), an employees is entitled for interest in case there is delay in releasing the payment. The relevant portion of the judgment is as under:-

“ Since 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 retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case(supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

11. Not only this, A co-ordinate Bench of this Court also passed judgment passed in case titled as “ **J.S. Cheema Vs. State of Haryana and others, 2014(13) R.C.R.(Civil)(355)**” has held that the benefit for which an employee has been withhold, the employee will be entitled for the interest. The relevant paragraph of the said judgment is as under:-

“ The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is laying it may result in higher rate because then it can also

include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

12. Not only this, there are instructions which has been issued by Government of Haryana on 20.02.2002 that in case the payment of the retiral benefit is delayed, the employees will be entitled for interest.

13. In view of the above, the petitioner is held entitled for interest @ 9% on the delayed release of the payments. The interest shall be calculated from the date when the amount became due to the petitioner till the actual release of the payment to the petitioner.

14. Let the actual amount of interest be calculated by the respondents within a period of two months from the date of receipt of certified copy of this order and whatever the amount, the petitioner is entitled for shall be released to the petitioner within a period of one month thereafter.

15. The writ petition is allowed in the above terms.

March 13, 2019
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[HARSIMRAN SINGH SETHI]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes