IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15275 of 2016
Date of Decision : 09.01.2019

Smt. Laxmi Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

Mr. Rajesh Sheoran, Advocate for respondent No. 4.

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Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the petitioner, who is the widow of one Sh. Madan Lal, is seeking the benefits for the service, which her deceased husband had rendered with respondents-Corporation.

As per the averments made in the writ petition, the petitioner stated that all the benefits for which she was entitled for in respect of the service rendered by her late husband, have not been released in her favour. The husband of the petitioner who was working as a Sweeper with the respondents-Corporation died on 16.07.2008. After the death of her husband, the petitioner was entitled for the gratuity, leave encashment, ex-gratia and the financial assistance every month. The petitioner was entitled for the provident fund also.

Upon notice of motion, respondents No. 3 and 4 have filed reply in which it has been stated that all the dues for which the petitioner was entitled for, have been released. It has been mentioned that once all the benefits have been released to the petitioner, no grievance can be made by the petitioner. In support of their claim, they have attached a chart (Annexure R-3/1) showing the dates of payments made to the petitioner under various heads. The said chart is as under :-

Particular	***Pre revised scale***	***Cheque No. and Date***	***Difference on a/c of Revised scale***	***Cheque No. and Date***	***Total Amount Paid***
Gratuity	92,604/-	088876 dated 29.08.2008	33,924/-	021443 dated 28.07.2015	1,26,528/-
Leave Encashment	49,787/-	088876 dated 29.08.2008	20,506/-	021443 dated 28.07.2015	70,293/-
Ex-Gratia	25,000/-	088876 dated 29.08.2008	--	--	25,000/-
Financial Assistance (17.7.08 to 31.08.08)	11,822/-	088876 dated 29.08.2008	--	--	Monthly paid regularly
Arrear of Revised pay alongwith ACP	--	--	1,73,705/-	016675 dated 06.06.2011	1,73,705/-
Arrear of DA of Financial Assistance from 1.7.11 to 31.7.2013	--	--	42,319/-	036548 dated 22.09.2016	42,319/-
G.P.F.	82,419/-	455011 dated 10.11.2008	--	--	82,419/-
Financial Assistance	--	--	--	--	Paid w.e.f. 17.07.2008 to 31.08.2013 regularly on monthly basis.
Family Pension	--	--	--	--	w.e.f. 01.09.2013 to life time of the petitioner on monthly basis.

A bare perusal of the above chart would show that though some of the payments were initially made within a period of one month but the arrears on account of the revised pay scale were paid to the petitioner only in the year 2015. The arrears of ACP for which the husband of the petitioner was entitled for, was paid on 06.06.2011 whereas the arrears of dearness allowance from 01.07.2011 to 31.07.2013 were paid only in September, 2016. There is an inordinate delay in release of the said payments by respondent No. 4 and there is not even a single word of justification given by the respondents about the said delayed payments. At this stage, learned counsel for the petitioner states that no averments regarding the entitlement of leave encashment has been given by the respondents in the chart.

It is a settled preposition of law that the employee or the legal heirs are entitled for the pensionary benefits immediately when they become due. In case they are withheld without any valid justification, the same will gave a cause to the claimant to claim interest as well. A Full Bench of this Court in the case of ***A.S. Randhawa Vs. State of Punjab,*** 1997 (3) SCT 468 has held that the employees are entitled for interest on the delayed payments. The relevant paragraph of the judgment reads 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 the 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."

In view of the above, as the respondents themselves have admitted in the chart reproduced above that the payments were delayed, the petitioner becomes entitled for the interest on the said payment from the date it became due till the same were released to the petitioner.

The writ petition is allowed. The respondents No. 3 and 4 are directed to grant the petitioner interest on the delayed payments @ 6% per annum from the date it became due till the same was released to the petitioner. Let the calculation of interest be done within a period of three months from the date of receipt of certified copy of this order and the interest so calculated shall be disbursed to the petitioner within a period of one month thereafter. While calculating the interest the respondents shall also pass appropriate order with regard to the entitlement of the petitioner in respect of the leave encashment which were available to the late husband of the petitioner.

The writ petition is allowed in above terms.

January 09, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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