

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

CWP-17084-2015

Date of decision: - 14.02.2019

Rajwinder Kaur

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.K. Arora, Advocate,
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Vivek Chauhan, Advocate
for respondent No.5.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is that no benefit has been released to her, for which she became entitled after the death of her husband, who unfortunately died while in service on 08.06.2011.

As per the averments made in the writ petition, husband of petitioner, namely, Sh. Paramjit Singh was appointed as a Panchayat Secretary on 23.05.1996. He continuously kept working till 12.10.2001 when the services of husband of the petitioner was relieved from service by the respondents/Government. On 18.11.2003, husband of the petitioner was reinstated in service with continuity of service and he was confirmed

vide order dated 26.06.2009.

As per the averments made in paragraph 4 of the writ petition, a charge-sheet was served upon the husband of the petitioner on 23.08.2010. During the pendency of the said charge-sheet, husband of the petitioner unfortunately died on 08.06.2011. Further, it has been averred in the writ petition that though after the death of an employee, the proceedings usually came to end, but the respondents continued with the said proceedings and enquiry officer gave a report without there being anyone to defend as husband of the petitioner had already died. Enquiry report was given on 13.09.2012.

Keeping in view the said enquiry report, the authorities withheld the benefits for which the petitioner became entitled for after the death of her husband. Hence, the present writ petition has been filed by the petitioner seeking release of the said benefits including the family pension.

The above-mentioned case came for hearing on 13.12.2018 on which date the following order was passed: -

“In the present case, petitioner Rajwinder Kaur, who is the wife of late Paramjit Singh who was working as a Panchayat Secretary, had approached this Court seeking the benefits of the service, which her late husband had rendered from the year 1996 till he died on 08.06.2011 while in service.

Learned counsel for the petitioner contends that before the husband of the petitioner died on 08.06.2011, a charge-sheet had been served upon him on 23.08.2010. The charge-sheet was pending and no enquiry had been conducted on the said charge-sheet till the husband of the petitioner died on 08.06.2011. Learned

counsel further contends that after the death of the husband of the petitioner, the Enquiry Officer could not have proceeded further with the enquiry proceeding. Still without any justification and without giving any opportunity to any of the legal heirs to defend Sh. Paramjit Singh, the Enquiry Officer held the husband of the petitioner guilty of the charges. Learned counsel further submits that even though the enquiry report was submitted, the respondents have not passed any order on the same even upto now whereby any recovery of amount has been attributed to the petitioner so as to entitle the respondents-State to withhold the benefits, for which the petitioner is entitled for, on account of the service rendered by the husband of the petitioner.

Learned counsel for the respondents-State is not in a position to show any documents by which any order of recovery was passed against the petitioner due to which the benefits, for which the petitioner was entitled for after the death of her husband, have been withheld. Learned counsel prays that he be allowed to ascertain as to whether any order of recovery has been passed in respect of the charge-sheet dated 23.08.2010.

Let an affidavit be filed in this regard as to whether any punishment was imposed for recovery of an amount in pursuance to the charge-sheet dated 23.08.2010 issued to the husband of the petitioner, on or before the next date of hearing.

In case, there is no order on record then explanation should be given in the affidavit itself as to why the benefits, for which the petitioner is entitled for in respect of the service rendered by her late husband, are being withheld.

Adjourned to 14.02.2019.”

In pursuance of the said order, an affidavit has been filed on behalf of respondents No.1 to 4 in Court today and the same is taken on record. A copy thereof has been supplied to counsel for the petitioner.

As per the affidavit, respondents have admitted that in view of the instructions of the Government of Punjab, where an employee dies

during the pendency of the disciplinary proceedings, the proceedings are to be closed and therefore, in view of the said instructions, the petitioner has been found entitled for the release of the benefits after the death of her husband and in this regard an order has been passed on 03.01.2019 (Annexure R-1).

It has been further mentioned that a sum of ₹66,564/- on account of gratuity and a sum of ₹1,06,496/- on account of leave encashment has already been released to the petitioner after the passing of order dated 03.01.2019 (Annexure R-1).

Counsel for the petitioner states that the petitioner is entitled for interest on these payments as the same were wrongly withheld by the respondents after the death of her husband, who died on 08.06.2011.

Counsel for the petitioner further states that the petitioner is entitled for interest for a period of approximately 7½ years as the amount became due in June, 2011 but the same has been released only in January, 2019.

In support of his arguments, counsel for the petitioner relies upon the law laid down by a Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others**, 1997(3) SCT 468 wherein it has already been held that the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled to interest.

In the present case, the respondents have admitted that the proceedings could not have continued after the death of husband of the petitioner. Meaning thereby, the respondents have admitted that the

petitioner was entitled for benefits in June, 2011 itself when the same became due, which amount has been released to her now in January, 2019.

Keeping in view the said admission and as per the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa'** **case (supra)**, wherein it has been held that the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled for interest. The relevant paragraph of the said 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 front 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.”

In view of the above, petitioner is held entitled to the interest @ 9% per annum from the date when the amount became due till the disbursement of the same.

Counsel for the petitioner further states that though an amount of ₹66,564/- has been released on account of gratuity, but the said

amount has not been rightly calculated. He further states that though the husband of the petitioner joined in the year 1996, but the gratuity amount has only been calculated from the date when he was reinstated in service in the year 2003.

Counsel for the petitioner further states that once continuity of service was granted while reinstating the husband of the petitioner in 2003, the benefit of gratuity is to be given by calculating the same from the year 1996 and not from the year 2003.

Counsel for the respondent(s)-State states that the above-said grievance of the petitioner will be examined by the department and an appropriate order will be passed in this regard.

Further, counsel for the petitioner states that the family pension, for which the petitioner has been held entitled for, has also not been released so far.

In respect to this relief, counsel for the respondents-State states the appropriate decision will be taken by the respondents by passing a speaking order.

In view of the above, the present writ petition is disposed of with the direction to the respondents to pay interest @ 9% per annum on the payments which have been released to the petitioner in January, 2019 from the date it became due till the disbursement of the same.

Let the calculation of interest be done within a period of two months from the date of receipt of certified copy of this order and the actual amount shall be paid to the petitioner within a period of one month thereafter.

Further, as undertaken by counsel for the respondents, let an appropriate order shall also be passed in respect of grievance raised by the petitioner noticed above about non-payment of full gratuity as well as non-release of family pension so far within a period of two months from the date of receipt of certified copy of this order.

Present writ petition stands disposed of in the above terms.

February 14, 2019
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes