IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17344 of 2015
Date of Decision : 11.03.2019

Manoj Kumar

...Petitioner

Versus

Oriental Bank of Commerce and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Duhan, Advocate for the petitioner.

Mr. R.N. Lohan, Advocate for the respondents.

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<u>Harsimran Singh Sethi, J.(Oral)</u>

In the present writ petition, the grievance which is being raised by the petitioner is that he is entitled for the grant of family pension w.e.f. 04.07.2001 instead of 27.11.2009, when the same was released to him and also the interest on the delayed release of the family pension, which was actually released to the petitioner in the year 2013 instead of 2009.

As per the facts mentioned in the writ petition, father of the petitioner died on 04.07.2001 while he was serving with the respondent-Bank. Petitioner was minor at the time of the death of his father. Before the death of his father, mother of the petitioner had already died and, therefore, the petitioner was being looked after by his maternal uncle. After the death of the father of the petitioner, the maternal uncle of the petitioner filed an application for opting for the pension scheme, which was issued by the respondent-Bank on 23.08.2010. The said pension scheme was applicable to all the employees, who were in service prior to 29.9.1995 and continued in service of the Bank as on 27.4.2010. As the father of the petitioner was in service in the year 2001, he became entitled to opt for the said pension. On behalf of the petitioner, the maternal uncle of the petitioner filed an application so as to grant the family pension to the petitioner in respect of the service rendered by the father of the petitioner with the Bank. The relevant clause of the said scheme is as under:-

> *"(iv) The family of those workmen/officers who were in the service of the Bank prior to 29.09.1995 but have died while in service of the Bank after that date will be eligible for family pension, provided -*
>
> *(a) the family of the deceased employee exercises option in writing within 60 days of the offer to become a member of the Pension Fund and*
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> *(b) refund within 30 days after expiry of the said period of 60 days the entire amount of the Bank's contribution to the Provident Fund & interest accrued thereon received by them on death plus an amount equal to 56% of the Bank's contribution to Provident Fund with interest received at the time of death being 30% contribution towards the initial funding gap in terms of Settlement/Joint Note dated 27.04.2010."*

In terms of the said clause, the respondents started process for the grant of the pensionary benefits to the petitioner in respect of the service rendered by his father. Petitioner was requested by the Bank to obtain a Legal Heir Certificate so as to enable them to release all the amount in favour of the petitioner. After completing all the formalities, the benefit was released to the petitioner from 2009 when the Pension Scheme came into being and it is an admitted case that the petitioner has been paid all the benefits starting from the year 2009. In respect of the family pension, the same was released to the petitioner in the year 2013 after the completion of all the formalities which the petitioner was required to fulfill.

Learned counsel for the petitioner argues that though the petitioner had applied for the Scheme in the year 2010 for the grant of family pension but the same should be given to him from the date when the father of the petitioner died and further, though the petitioner was found eligible for the grant of family pension in the year 2009 but the same was released in the year 2013 and, therefore, petitioner is entitled for interest as there was an inordinate delay in release of the said benefit.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that an option was given vide Circular dated 23.08.2010 to the children of the deceased employees to opt for the Pension Scheme through their guardian. Though, the option was given but all the documents were not supplied by the petitioner and in the documents, which were supplied by the petitioner on 13.06.2011, the name of the mother was not correctly mentioned and it was only after getting the name of the mother corrected from the Civil Court, the correct Guardian Certificate was submitted on 28.05.2013 and immediately upon the receipt of the same, the payments were released to the petitioner in August, 2013. The relevant paragraph of the written statement is as under :-

> *"2. That the respondent Bank issued the circular dated 23.08.2010 and extended another option to join the pension scheme to those who did not opt for pension*

earlier vide circular dated 23.08.2010 w.e.f. 27.11.2009. The true copy of the circular dated 23.08.2010 is annexed herewith as Annexure R-1.

3. *That under the Scheme of 2nd option for pension as per circular dated 23.08.2010, the children of the deceased submitted the requisite form on 01.10.2010 for opting pension through their maternal uncle and guardian appointed by the Civil Court, Karnal. However the necessary documents were not supplied by the guardian of the petitioner alongwith the requisite form submitted on 01.10.2010 and on asking of the respondent bank, the guardian of the petitioner submitted the documents on 13.06.2011. The name of the mother of the petitioner was different in the documents submitted by the guardian of the petitioner. The mother's name of petitioner has been mentioned as Santosh in the Middle Examination Certificate, mother's name of his sister Manju has been mentioned as Sunita in the Middle Examination Certificate and the mother name of the petitioner has been mentioned as Shanti Devi in the Judgment dated 14.01.2005 regarding appointment of Sh. Rajinder Kumar as guardian of the petitioner, hence the respondent Bank vide its letter dated 24.06.2011 called upon the petitioner to provide the documents incorporating correct details. The petitioner through his guardian moved an application before the Ld. Civil Judge (Senior Division) Karnal for making correction regarding name of his grandfather and his mother in the petition as well as in the judgment dated 14.01.2005 and the application moved by the petitioner through his guardian was allowed by the Ld. Civil Judge (Senior Division) Karnal vide order dated 28.05.2013. The petitioner through the guardian again submitted the*

> *documents incorporating the correct name of his mother and on receipt of the documents regarding correction in the name, the respondent bank immediately released the arrear of the pension in favour of the petitioner w.e.f. 27.11.2009 vide its letter dated 16.08.2013. Thus there was no delay in payment of the arrears of pension to the petitioner. The true copy of the letter dated 16.08.2013 is annexed herewith as Annexure R-2.*

Hence, it is prayed by the respondents that there is no deficiency or delay in the release of the payment for which the petitioner became entitled for.

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

It is only in the year 2010 vide Annexure R-1, an option was given to the children of the deceased employees to opt for the Pension Scheme. It is in respect of this option, the maternal uncle applied for the grant of the pensionary benefits. Once the option was exercised by the petitioner in the year 2010, he will be governed for the grant of the pensionary benefits under the said scheme and, therefore, the petitioner was rightly granted the benefit of family pension from the year 2009 onwards instead of 2001 when the father of the petitioner died. There was no Scheme under which the father of the petitioner or the petitioner was entitled for pension or the family pension as the case may be. It is only in the year 2010, the petitioner became entitled for the benefits for the service which the late father of the petitioner had rendered.

Hence, I am of the view that no grouse can be made by the petitioner for the grant of pensionary benefits starting from the year 2009 instead of 2001 as being claimed by the petitioner.

Further, with regard to the grant of interest in respect of the payment which were released to the petitioner in August, 2013, justified explanation has been given by the respondents, which is reproduced hereinbefore. All the documents, which were required to release the payment, were not supplied by the petitioner. There were discrepancies in the documents, which were submitted by the petitioner, which the petitioner got rectified from the Civil Court in May, 2013 and, therefore, after the receipt of all the necessary documents, the payment, for which the petitioner became entitled for, was released immediately without any further delay.

From the above, it can be safely presumed that there was no delay much less unjustified. Once the petitioner completed the necessary formalities in May, 2013, all the benefits were released to him within a period of three months.

Under these circumstances, the petitioner cannot claim interest on the said payments. Therefore, no interference is called for in the present writ petition and the same is dismissed with no orders as to cost.

March 11, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? *Yes*
Whether reportable? *Yes*