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

(243) **CWP-15572-2017**
Date of Decision: February 06, 2019

Taro Bai **..Petitioner**

Versus

Punjab Water Resources Management and Development Corporation Limited
..Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Param Pal Singh, Advocate, for
Mr. Satnam Singh Walia, Advocate, for the petitioner.

Mr. Aman Sharma, Advocate, for the respondent.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is that though her husband died on 09.05.2012 while in service but the benefits for which the petitioner became entitled for after the death of her husband, were released after unexplained delay and therefore as per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468***, the petitioner is entitled for interest on the delayed release.

As per the facts mentioned in the present writ petition, the husband of the petitioner was employed as a Sub Divisional Engineer with the respondent-Corporation and while working as such he died on 09.05.2012. After the death, the petitioner was entitled for the gratuity and leave encashment. Leave encashment was released to the petitioner only on 11.07.2013 though the same was sanctioned by the respondents themselves on 20.09.2012 vide Annexure P-3. With respect of the leave encashment, the same was sanctioned on 25.01.2016 but was ultimately released on 21.03.2016.

Learned counsel for the petitioner states that the petitioner is entitled for the interest on the amount of Rs.10 lacs (Gratuity) and Rs.7,81,770/- (Leave Encashment) which was paid to the petitioner after undue and unexplained delay.

No reply has been filed on behalf of the respondents but the averments which have been noticed above, have not been rebutted by counsel for the respondents even during the course of the arguments.

In view of the above, it is clear that the petitioner became entitled for the amount immediately on the death of her husband whereas the same was released in July 2013 and March, 2016 and therefore as per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa's case (supra)***, an employee becomes entitle for the interest if the payments have been made after unexplained delay. 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. Padmanbhan 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."*

Not only this, the Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782*** , has held that in case the amount for which an employee was entitled for, has been retained by the department, the department is liable to pay the interest. The relevant portion of the said order 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 lying 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."*

In view of the above, the present writ petition is squarely covered by the above mentioned decision and hence the petitioner is found entitled for the interest. The respondents shall pay the petitioner interest @ 9% per annum from the date the amount became due till the same was released to the petitioner.

Let the calculation be done within a period of two months from the receipt of copy of this order and the actual payment shall be released to the petitioner within a period of one month thereafter.

The writ petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

February 06, 2019
harsha

Whether speaking/reasoned: Yes
Whether reportable: Yes