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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-20056-2016 (O&M)
Date of decision : 11.09.2019

Gurmit Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI.

Present: Mr. G.S. Bal, Senior Advocate with
Mr. M.K. Madahar, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

...

HARSIMRAN SINGH SETHI, J. (Oral)

In this petition, petitioner claims that he was entitled for the release of the benefits in respect of service which his late wife namely Jasbir Kaur had rendered with the Punjab Police as Lady Sub Inspector after her death. Learned Senior counsel for the petitioner State that late Jasbir Kaur was not extended the retiral benefits after her retirement on 30.06.2012. Grievance of the petitioner is that even the family pension was not extended to the petitioner for which he was entitled after the death of his wife on 24.05.2013.

Prayer of the petitioner in this petition is for issuance of the directions to the respondents to release the pensionary benefits in respect of service which his wife Jasbir Kaur had rendered with the Punjab Police as well as the family pension to the petitioner after the death of his wife alongwith interest.

The facts mentioned in the writ petition are that, the wife of the petitioner Jasbir Kaur retired as a Lady Sub Inspector on 30.06.2012.

After her retirement, she became entitled for the benefit of pension and other retiral benefits in respect of the service rendered by her, but the same were not released by the respondents. These benefits were not released to her till she died on 24.05.2013. After her death, the claim was made by the petitioner for the release of pension and other benefits vide legal notice (Annexure P-5), but the said request was not accepted and even the family pension, to which the petitioner became entitled for, after her death, was not extended to the petitioner, hence, the present petition has been filed praying for issuance of directions to the respondents to release pensionary benefits of his late wife Jasbir Kaur for which she became entitled on her retirement on 30.06.2012 and also for the family pension to the petitioner after the death of Jasbir Kaur on 24.05.2013 alongwith 18% compound interest.

Upon notice of motion, respondents have filed the reply. After the reply, another affidavit has been filed by the respondents on 28.08.2019 on behalf of respondent No. 4 wherein, it has been stated that all the benefits for which the petitioner was entitled, on account of the death of Jasbir Kaur i.e. pensionary benefits in respect of the service rendered by the wife of the petitioner Jasbir Kaur and also the benefit of family pension already stands released to the petitioner and, therefore the present writ petition has been rendered infructuous. The relevant paragraph of the affidavit is as under:-

> " That the Accountant General (A&E) Punjab Chandigarh sanctioned pension vide office letter No. 06/2181213864/13-14/PE/14/10/800442991 dated 10.01.2014 to the petitioner. The Petitioner submitted the Bank option form at the office of the respondent No. 4 on 17.2.2014 for receiving the family

pension. The respondent No. 4 forwarded the pension case to Punjab National Bank Gurdaspur (pension disbursing authority) vide letter No. 8632 dated 20.2.2014 for disbursement of family pension to the petitioner. As per Annexure-RI, the Petitioner reached the bank one year later and submitted the necessary documents i.e. life certificate and letter of undertaking etc., on 16.02.2015.

As per detail given below and in Revised Annexure R-1, payments are made to the petitioner as per following details:-

Period	Amount	Payment Date	Remarks/deposit/ A/c Number
A Pension 1.7.12 to 24.5.13 Life Time Arrear Smt. Jasbir Kaur	Rs. 209343-00	2.8.2016	A/c 34830001001 25678
B 25.5.2013 to 31.3.2014	Rs. 106775-00	12.11.2015	A/c 34830001000 86124
C Commutation Pension :	Rs. 422903-00	12.12.2015	A/c 34830001000 86124

[Total of B (Rs.106775) to +C (Rs.422903-00) = Rs.529678-00]

Regular Pension Starts from:-

D. 1.4.14 to 30.6.15 15 months	Rs. 194532-00	30.6.2015	A/c 34830001000 86124

E. Family pension from 1.7.15 to 31.7.2019 Rs. 7,19067-00
(Monthly pension Rs. 17,107-00) A/c 3483000100086124

Till date, the copy of Pay order alongwith already attached as Annexure R-I.

No any payment of petitioner is pending towards Respondent No.4.

2. That there is no delay in making the payment of gratuity to the petitioner. And the respondent No. 3 Senior Superintendent of Police, Gurdaspur made the payment to the petitioner on

3.4.2014 through RTGS from HDFC Bank Code HDFC0000856 against account No. 08561050018205 without lapse of any time."

Learned Senior counsel for the petitioner does not dispute the receipt of the payments which have been depicted by the respondents in their affidavit. He only prays that petitioner is entitled for benefit of interest on the delayed payments.

Learned counsel for the respondents contest this claim on the ground that the petitioner failed to sign certain documents, which were necessary for the release of the pensionary benefits in respect of service rendered by her late wife Jasbir Kaur as well as grant of family pension and, therefore, no interest is payable as the benefits were released immediately after the petitioner completed all formalities on 16.02.2015 and with regard to the claim qua grant of interest immediately upon retirement, the same was not available to the petitioner on the ground that there was a criminal case pending against the wife of the petitioner due to which the pensionary benefit could not be released and the petitioner only became entitled after the death of his wife.

Learned Senior counsel appearing on behalf of the petitioner rebuts the aforesaid arguments raised and states that the petitioner was only asked to furnish legal heir certificate, which was submitted immediately in the year 2014 and in support of his contention, he relies upon Annexure P-8 dated 16.06.2014 which has been issued by the Deputy Commissioner, Gurdaspur, wherein details of the legal heirs were verified and submitted to the Senior Superintendent of Police for taking an appropriate action.

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

The only claim which survives is for the grant of interest on the delayed payment. The objection which has been raised on behalf of respondents is that the petitioner had completed all formalities for getting pension, retiral benefits in respect of service rendered by his late wife-Jasbir Kaur after her death in February, 2015, therefore, as the benefits were released immediately thereafter, no interest is payable.

Learned counsel for the petitioner challenges the said objections and states that petitioner was only asked to deposit the 'legal heir' certificate which was submitted in June, 2014. He further states that the petitioner was never asked to furnish any document or complete any formality. Once, the only formality required for release of the benefits upon legal heir is the submission of legal heir certificate issued by the competent authority, the objection which has been raised on behalf of the respondents that petitioner was required to complete some other formalities, details of which have not been stated.

Nothing has been brought to the notice of this Court as to what formality needs to be completed at the hands of the petitioner. No rule has been cited to support the argument that petitioner was supposed to give the necessary documents i.e. life certificate and letter of undertaking before the release of the benefits. Even otherwise, there is nothing on record to show that these documents were ever called from the petitioner at any given point of time and the petitioner failed to submit the same. In the absence of any communication written by the respondents asking petitioner to fulfill this formality, the objection on behalf of the respondents to claim of grant of interest, cannot be accepted.

Once, the legal heir certificate was submitted in June, 2014, if still, there was any formality to be fulfilled by the petitioner, the respondents should have asked the petitioner to do the needful.

As per the judgment passed by a Full Bench of this Court in ***'A.S. Randhawa Vs. State of Punjab'1997(3) S.C.T.468,*** if an amount for which an employee is entitled is retained and used by the employer/department, employee will be entitled for the interest on the same.

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 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.*"

A co-ordinate bench of this Court in ***'J.S. Cheema Vs. State of Haryana and others'*** decided on 20.11.2013 has held that wherein an amount for which an employee is entitled, has been retained by the employer, the employee will be entitled for interest on such delayed payment. The relevant portion 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 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."

The case of the petitioner is squarely covered by the above reproduced judgments on the amount released by the respondents beyond June, 2014. The petitioner will be entitled for interest, as according to this Court, all the formalities for release of the benefits stood completed in June 2014.

Keeping in view the above, the petitioner is held entitled for interest on the amount released by the respondents alongwith retiral benefits as well as family pension @ 9% per annum starting 15.06.2014 onwards till the actual payment released to the petitioner.

Let the calculation of interest be done by the respondents within a period of 2 months from the receipt of a certified copy of this order and the interest so calculated be released to the petitioner within 1 month thereafter.

The present petition is allowed in above terms.

11.09.2019 **(HARSIMRAN SINGH SETHI)**
Harish Kumar **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No