

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20939 of 2016
Date of Decision : 08.01.2019

Santosh Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. I.D. Singla, Advocate for the petitioner.

Mr. Sunil Kumar Vashisth, DAG, Haryana.

Harsimran Singh Sethi, J.(Oral)

1. In the present writ petition, the claim is raised by the widow in respect of the monetary benefits which she was entitled for after the death of her husband, Sh. Zile Singh.

2. As per the pleadings, Sh. Zile Singh joined as a Clerk in Haryana Roadways on 14.02.1977 and he, unfortunately, expired on 03.05.2006 while in service. On the date of death of Sh. Zile Singh, he had rendered about 29 years of service. The petitioner, after the death of her husband Sh. Zile Singh, became entitled for ex-gratia payment of ₹5 lacs and other benefits such as leave encashment and family pension.

3. As per the averments made in the writ petition, the said benefits were not paid to the petitioner without any valid justification and hence, the petitioner had approached this Court for claiming the above said monetary benefits on account of the death of her husband.

4. Upon notice of motion, reply has been filed by the respondents, wherein it has been admitted that under the Rules, the petitioner was only entitled for ₹5 lacs as Ex-gratia/Financial Assistance, which was offered to her but the petitioner refused to accept the same. Further it has been mentioned in para 9 of the reply that the amount of ₹5 lac could not be given to the petitioner due to non-cooperation of the petitioner only and it is only after the petitioner submitted necessary documents, the payment was released to her on 23.03.2017. No explanation has been given in respect of withholding the leave encashment and the family pension for which the petitioner was entitled for immediately on the death of her husband. It has been stated that the leave encashment has been paid to the petitioner on 02.12.2009 and the payment of family pension was started from 09.06.2007 only.

5. I have heard learned counsel for the parties and have gone through the record.

6. It is admitted by the respondents that the petitioner was entitled for the benefit of Ex-gratia, leave encashment and family pension immediately upon the death of her husband on 03.05.2006. Only a statement has been made in the reply that petitioner refused to accept. Nothing has been mentioned as to whether any amount was offered to the petitioner or not and if offered when? Further, in respect of the defence taken by the respondents that the amount of ₹5 lac was paid in the year 2017 only because the petitioner did not submit the necessary documents, no description of the documents, which were required to be submitted by the petitioner has been given. Further the letters which have been written to the petitioner only started in the year 2010 i.e. approximately after a period of

four years of the death. The amount of Ex-gratia is to be provided for immediate financial need to a person and it loses its significance if the payment is to be made after a period of 11 years and that too after the litigation. Further no justification has been given for the delay in payment of leave encashment or the family pension.

7. As per the settled principle of law laid down by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab***, 1997 (3) SCT 468, which has been reiterated by this Court in the case of ***J.S. Cheema Vs. State of Haryana and others***, 2014(13) RCR(Civil) 355, if the amount is retained by the respondents without any valid justification, the State is also liable to pay interest on the said payment.

8. In view of the above, the present writ petition is allowed. Respondents are directed to calculate the amount of interest @ 6% per annum from the date it became due till the same was released to the petitioner. Let the calculation be done within a period of three months from the date of receipt of certified copy of this order and the amount so calculated shall be released to the petitioner within a period of one month thereafter.

January 08, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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