IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-21701-2016

Kamaljeet Kaur ....Petitioner

Versus

Punjab State Power Corporation Ltd. and others .....Respondents

2. CWP-21725-2016

Mohan Lal ....Petitioner

Versus

Punjab State Power Corporation Ltd. and others .....Respondents

Date of decision: - 04.04.2019

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. G.S. Sandhu, Advocate,
for the petitioner.

Mr. Piyush Khanna, Advocate
for the respondents in CWP-21701-2016.

None for the respondents in CWP-21725-2016.

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HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, above-mentioned two Civil Writ Petitions are being disposed of in the light of common question of law and facts involved.

In these writ petitions, the claim of the petitioners is only for the grant of interest on the delayed release of the benefits.

In CWP No.21701 of 2016, husband of the petitioner was appointed as T-mate on work charge basis on 01.04.1980 and he continuously worked as such till 04.05.2016 when his services were regularized as an Assistant Lineman. Unfortunately, while working as Assistant Lineman, husband of the petitioner died on 17.05.2012. After the death of her husband, the petitioner was entitled for the benefits in respect of the service rendered by her husband. In November, 2012, petitioner was asked to deposit the EPF share in respect of the service rendered by her husband, which was immediately deposited by the petitioner to the tune of ₹1,81,180/-. Despite the fact that the said requirement was fulfilled by the petitioner immediately, pensionary benefits were not released to her.

Thereafter, petitioner approached this Court by filing CWP No.9571 of 2014, which was disposed of by this Court on 19.05.2014 directing the respondents to decide the legal notice within a period of two months. Once again, the respondents failed to comply with the order passed by this Court and the petitioner approached this Court by filing COCP No.446 of 2015 and during the pendency of the said contempt petition, the benefits of the service rendered by late husband of the petitioner were released in favour of the petitioner.

As the benefits were being released to the petitioner only in July/August, 2015, the petitioner again served the respondents with a legal notice on 25.10.2015, claiming the interest on the delayed release of payments, as the payments were released to the petitioner in July/August, 2015, for which she was entitled in May, 2012 and therefore, there was a delay of more than three years in releasing the same.

The said request of the petitioner was declined by the respondents vide order dated 10.12.2015, which order has been impugned by the petitioner in the writ petition.

In CWP No.21725 of 2016, petitioner was appointed as T-mate on work charge basis on 20.05.1987. On 01.07.1998, he was promoted as a Feeder and thereafter, his services were regularized as an Assistant Lineman on 04.07.2000. Ultimately, he retired as Assistant Lineman on 28.02.2013. After the retirement, petitioner was not being paid the retiral dues though he had already deposited the EPF share, as asked by the respondents to the tune of ₹15214/- while in service.

Petitioner in this petition also approached this Court by filing CWP No.9556 of 2014, which was disposed of on 16.05.2014, directing the respondents to decide the legal notice within a period of three months. As nothing was being done by the respondents, petitioner filed a COCP No.440 of 2015, during the pendency of which, the benefits were released to him in August, 2015. Again a claim of interest was raised by serving a legal notice, which request has been declined by the respondents vide order dated 10.12.2015, which is under challenge in this writ petition.

Upon notice of motion, a reply has been filed by the respondents in CWP No.21701-2016.

In the said reply, the stand taken by the respondents is that lot of time was consumed in concluding the formalities to complete the service book as the petitioner's husband had worked on work charge basis in various units. Thereafter, certain objections were raised by the Audit Department and after clearing of the objections, dues were released to the petitioner in the year 2015. The relevant portion of the reply is as under: -

> "3. That in fact, in the case under reference, the work charge service book of the husband of the petitioner was not completed at the time when pension papers were sent to pension section on 05.09.12. Subsequently, regular service book was sent to EAD section for audit. Thereafter, Pension Section asked to get regularize the work charge service as the regular service of the husband of the petitioner was less than 10 years.
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> 4. That *per se*, sufficient time was required to complete the formalities concerning work charge service book as it has to be completed from all related offices where the employee has worked and at no point of time earlier, the deceased employee had sought counting of his work-charge service for pensionary benefits. In the meantime, the EPF share was got deposited from the petitioner to avoid any cost of interest.
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> 5. That in between, the petitioner approached the Hon'ble Court and as per the order dated 19.05.2014, speaking order concerning the same was passed and after removal of objections of audit section, the same was sent to Pension Section. Immediately after the issuance of pension payment order, all dues were released to the petitioner in the month of July, 2015.
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> 6. That in the aforesaid circumstances, after completion of all necessary formalities, due amount was released to the petitioner without any delay.
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> 7. That *per se,* the petitioner is not entitled to any interest on pensionary dues. The petition deserves dismissal on this ground alone."

As far as the stand of the respondents in CWP No.21725 of

2016, the same is as under: -

> "4. That it is at the option of an employee to get the work charge service counted for pensionary benefits. When an employee asks to get his work-charge service counted for pensionary benefits, sufficient time is required for completing service book and finding the amount of EPF Board share from all related offices when he has worked. Therefore, when Sh. Mohan Lal asked to get his work-charge service counted for pensionary benefits, the answering respondents immediately wrote to the related EPF offices to give information of EPF Board share of all EPF accounts. In May, 2011, the EPF office gave information regarding four accounts, but still no information was received regarding the other accounts. Thereafter, another letter was written to the EPF office to give remaining information, but no reply was received from EPF office.
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> 5. That without receiving complete information, EPF Board share amount could not be deposited from Sh. Mohan Lal. The petitioner was also asked to give information of all his EPF accounts in January, 2014 and August, 2014, but the complete information was not provided by the petitioner. Therefore, correspondence was made with all related offices, and finally in June 2015, it was found that Sh. Mohan Lal has to get his final withdrawal from Account No.1496/1667. Therefore, the petitioner was asked to make final payment of this account. The Board's share of EPF could only be deposited after the abovementioned information was received from the EPF office and as such unavoidable delay occurred in payment of the amount. Therefore, it is submitted that there was no willful delay on part of the answering respondents in the payment of final amount to the petitioner.
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> In view of the submissions made above, it is respectfully prayed that the writ petition may kindly be dismissed."

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

From the perusal of the above facts, it is clear that the petitioners were entitled for the relief immediately, when the husband of the petitioner in CWP No.21701 of 2016 died in the year May, 2012 and petitioner in CWP No.21725 of 2016 retired in February, 2013. No valid justification has been given except that the department was completing the formalities. Nothing has been stated that as to what formalities were to be completed which consumed years together to be completed. Furthermore, petitioner(s) had already played their part by depositing EPF share, but even after depositing of the same, the respondents took three years to release the benefits and that too without any valid justification. It cannot be said that completion of service book will take more than three years so as to deny the legitimate benefit to the petitioners. Completing the service book is an act to be performed by the respondents themselves. The explanation given in the reply is not a valid one, which may justify the withholding of the pensionary benefits for more than three years.

As per the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997 (3) SCT 468,** where an amount has been retained by the respondents without any valid justification and there is a unjustifiable delay in releasing the same, the employee will be entitled for interest. The relevant paragraph of 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."

Not only this, in the case of **J.S. Cheema** **Vs**. **State of Haryana, 2014(13) RCR (Civil) 355,** a Co-ordinate Bench of this Court had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's** **case (supra)** 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."

A bare perusal of the above would show that where the amount has been retained by the department that too without any valid justification, the employee has been held entitled to the interest.

The cases of the petitioners are squarely covered by the above-said judgments and therefore, they are held entitled for the grant of interest @ 9% per annum from the date the payment became due i.e. when husband of the petitioner in CWP No.21701 of 2016 died in May, 2012 and in respect of petitioner in CWP No.21725 of 2016, when he retired on 28.02.2013, till the date the payments were released to them.

The respondents are directed to calculate the interest within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioners within one month thereafter.

Present writ petitions stand allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

April 04, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes