IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26628 of 2013
Date of Decision : 19.03.2019

Birbati

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Gupta, Advocate for the petitioner.

Ms. Safia Gupta, A.A.G., Haryana.

Ms. Sunita Gupta, Advocate for
Mr. Mohammad Arshad, Advocate for respondent No. 4.
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Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the grievance of the petitioner is that after the death of her husband, who was working with the respondents as a Salesman, the benefits have not been paid to her.

As per the averments made in the writ petition, husband of the petitioner, namely, Jai Narain was working as a Salesman with the respondent No. 4-Society since 13.10.1983. He kept on working there till he unfortunately died on 10.05.2011. After the death of her husband, the petitioner became entitled for the benefit in respect of the service rendered by her husband with the respondent No. 4-Society.

In the writ petition, it has been averred that no benefit of gratuity and the leave encashment for which the petitioner is entitled for after the death of her husband has been paid to her.

Upon notice of motion, reply was filed on behalf of respondents No. 2 and 3, only respondent No. 4, where the husband of the petitioner was working, was not being represented before this Court. In order to secure the presence of respondent No. 4, this Court passed an order on 20.11.2017 that respondent No. 4 should remain present in Court to explain as to why benefits have not been released to the petitioner. Cost of ₹5000/- was also imposed.

Today, respondent No. 4 is present in Court. He states that a sum of ₹78,000/- has been paid to the petitioner by two different cheques dated 01.12.2014 by way of gratuity and leave encashment, which was due to the petitioner. He states that no further amount was due to the petitioner and fairly states that the said amount does not carry interest.

Learned counsel for the petitioner states that as the husband of the petitioner died in May, 2011 but the amount was paid to the petitioner, only in December, 2014, therefore, the petitioner is entitled for interest on the said payments as there was no valid justification with the respondents to withhold the same.

Respondent No. 4 has not been able to point out any impediment in the release of the benefits to the petitioner after the death of her husband in May, 2011 and there is no explanation qua the delay in releasing the said amount. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468*** has held that if there is no justifiable reason for retaining an amount, the claimant will be entitled for interest on the delayed release of the payment. 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 the 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, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR(Civil) 355*** has stated that once an amount belonging to claimant has been retained by the respondents, the claimant will be entitled for interest. The relevant paragraph of the judgment reads 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 the present case, the petitioner is held entitled for interest as the amount for which she became entitled for in May, 2011 was released only in December, 2014 and there is no justifiable reason given by the respondents to withhold the same for more than three and half years. The amount which the respondents released in December, 2014 shall carry interest @ 9% per annum from the date, husband of the petitioner died till the release of the said amount in December, 2014. Let calculation of the amount be done by the respondents within a period of one month from the receipt of copy of this order and the payment of interest shall be made to the petitioner within a period of one month thereafter. As the cost imposed by this Court on 29.02.2016 amounting to ₹5000/- has not been paid to the petitioner so far, the said amount shall also be included while making payment to the petitioner.

The compliance of this order shall be reported by the respondents to this Court by filing appropriate affidavit.

The present writ petition stands disposed of.

However, liberty is granted to the petitioner to file appropriate application in case any other amount, for which the petitioner is entitled for, still due.

March 19, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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