IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-27706-2017
Date of Decision: - 18.12.2019

Ram Rati

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. Shivendra Swaroop, AAG, Haryana.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the benefits in respect of the service rendered by Sh. Sajjan Singh i.e. late husband of the petitioner, who died while in service on 28.09.1991, has not been released to the petitioner and that too without any valid justification.

The contention raised on behalf of the petitioner is that even the family pension for which the petitioner became entitled is not being released even though the claim of the petitioner is genuine and without any impediment, but still, the respondents were sitting over the same. Petitioner has approached this Court seeking the writ of mandamus for a direction to the respondents to release the pensionary benefits to her including family pension after the death of her husband, who unfortunately died while in service on 28.09.1991.

Upon notice of motion, an affidavit has been filed by the respondents, in which, the claim of the petitioner has been accepted.

In the short reply, the respondents have admitted that as the record of the late husband of the petitioner, who was working as a driver with the Haryana Roadways, was not traceable, the benefits to the petitioner could not be released. Further, it has been stated that even the benefit of family pension w.e.f. 28.09.1991 has already been released to the petitioner on 09.04.2019. The relevant paragraph of the reply is as under:-

> "The present petition has been filed arraying General Manager, Haryana Roadways, Jind as a necessary party, however, the husband of the petitioner died as Driver while he was working in Chandigarh depot. In case of Driver, the Competent Authority is General Manager concerned and since the record was in Chandigarh depot, therefore, General Manager, Jind was not able to trace the case, so the written statement could not be filed on time. On coming into notice of the answering respondents, the case of the petitioner has been examined and on examination, it has been found that the petitioner is entitled for family pension.
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> 3. That the case of the petitioner for family pension w.e.f. 28.09.1991 has already been submitted vide letter No.5538/ECG dated 09.04.2019 to the Accountant General (A&E) for releasing the same. Copy of the letter dated 09.04.2019 is annexed as Annexure R-1. It is submitted that the husband of the petitioner was appointed on 07.11.1990, who however unfortunately died after rendering nearly 11 month service on 28.09.1991 and on settlement of the legal issue, vide order dated 19.01.2017 aforesaid, the claim of the petitioner for family pension has become admissible.

As such, the prayer of the petitioner has become infructuous and it is submitted that the present petition may kindly be disposed off in interest of justice."

Learned counsel for the petitioner states that the benefits have already been released to the petitioner during the pendency of the writ petition, but as the same have only been released to the petitioner in May, 2019, whereas the said amount was due to her when her late husband unfortunately died on 28.09.1991 i.e. approximately 28 years ago, therefore, the petitioner is entitled for the interest on the payment, which has been released to her on 17.05.2019 amounting to ₹13,48,374/-.

Learned counsel for the respondents has no justification to offer, as to why, the payments, which have been released to the petitioner now in May, 2019, were withheld for a period of 28 years. Once, it is admitted that petitioner was entitled for the family pension and other benefits upon the death of her husband in September, 1991, retaining the said benefits for a period of 28 years and forcing the petitioner to approach this Court, is not at all acceptable.

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others**, **1997(3) SCT 468,** wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits is to be released within a reasonable time and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents for more than two months and that too without any justifiable reason, the employee will be entitled for interest. 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, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used 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."

The case of the petitioner is squarely covered by the abovesaid judgments as the amount, for which the petitioner had become entitled for in September, 1991, has been released to her in May, 2019 and the department has used this amount and had retained the same without there being any impediment for the release of the same to the petitioner.

In view of the above, the writ petition is allowed. The petitioner is held entitled for interest @ 9% per annum on the payments, which have been released to her in May, 2019, from the date the amount became due till the release of the same.

Let the calculation of the amount of interest be done 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 petitioner within one month thereafter.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

December 18, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes