**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 7791 of 2016 (O&M)
Date of Decision : 17.01.2019

Smt. Narinder Kaur Grewal and another
...Petitioners

Versus

The State of Punjab and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puran Chand Arora, Advocate for the petitioners.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

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Harsimran Singh Sethi, J.(Oral)

CM-12749-CWP-2018

By this application, the counsel wishes to place on record copy of the Writ Petition No. 19405 of 2014 as well as order dated 18.09.2014.

The application is allowed. Copy of Writ Petition No. 19405 of 2014 as well as order dated 18.09.2014 is taken on record as Annexures P/6 and P/7 respectively.

CM-5644-CWP-2017

By this application, the counsel wishes to place on record the rejoinder to the written statement filed on behalf of respondents No. 1 to 3.

The application is allowed and rejoinder to the written statement filed on behalf of respondents No. 1 to 3 is taken on record.

CWP No. 7791 of 2016

In the present writ petition, the claim which has been made by the petitioners is that even though the husband of petitioner No. 1 retired from service on 31.01.1992 but the retiral benefits were only released in the year 2015 after a delay of approximately 23 years. Therefore, due to this unjustified delay the petitioner No. 1 is entitled for interest on the said delayed payments.

As per the averments which have been made in the writ petition, husband of petitioner No. 1 retired from service on 31.01.1992. It has been mentioned in the writ petition that husband of petitioner No. 1 submitted the pension papers but those were not finalized. Unfortunately, husband of the petitioner No. 1 died on 30.09.2013 awaiting his pensionary benefits. After the husband of petitioner No. 1 died, the petitioner No. 1 approached this Court by filing CWP No. 19405 of 2014 for the grant of pension and other retiral benefits. The said writ petition was disposed of by this Court by giving direction to the respondents to decide the legal notice dated 11.04.2014 (Annexure P/5) attached with the Writ Petition bearing CWP No. 19405 of 2014 within a period of two months.

Keeping in view the said order passed by this court, the respondents processed the case of petitioner No. 1 for the grant of the pensionary benefits in respect of the service rendered by her late husband.

As per the averments which have been made in the writ petition, the petitioner No. 1 was given leave encashment amounting to ₹26,240/- on 14.03.2015. GPF amounting to ₹30,830/- on 24.07.2015, DCRG amounting to ₹33,825/- on 24.07.2015 and arrears of pension amounting to ₹16,67,346/- on 03.09.2015/11.09.2015. Hence in all, the petitioner No. 1 has been paid a sum of ₹17,58,241/-.

As petitioner No. 1 was not satisfied as she was not granted interest, she served a legal notice in this regard on 07.01.2016 (Annexure P/4) and ultimately filed the present writ petition seeking interest on the delayed payments.

Upon notice of motion issued by this Court, the respondents have filed reply. In para 2 of the preliminary submissions, the respondents have stated that the husband of petitioner No. 1 failed to submit the pension papers after his retirement and the pension papers were only submitted by petitioner No. 1 after the death of her husband on 30.09.2013 alongwith the legal notice served by her counsel, meaning thereby that the pension papers were submitted by petitioner No. 1 in April, 2014.

Learned counsel for the respondents states that in the absence of the pension papers, no pension could have been awarded to petitioner No. 1 and the delay is only attributable to the husband of petitioner No. 1, who failed to submit pension papers during his lifetime after his retirement.

Replication to the written statement has been filed. As the fact of delay has been explained on the ground that husband of petitioner No. 1 became mentally disturbed after retirement and ultimately, died on 30.09.2013.

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

In the present case, it is highly doubted as to whether the husband of petitioner No. 1 completed formalities for the award of the pension. Rather, there was no communication from the husband of petitioner No. 1 till he died after his retirement claiming pensionary benefits. It is admitted that only a legal notice was issued by petitioner No. 1 after the death of her husband that too in the year 2014. The respondents have stated that it is only after the formalities were completed by petitioner No. 1 after the death of her husband, the pension was granted. Further, even in the replication, there is no denial except Annexure P/3 that the husband of petitioner No. 1 made a request for the release of pensionary benefits vide Annexure P/3 in the year 1992. Once the submission of 'No Objection Certificate', which is the essential formality to be completed before the issuance of pension/pensionary benefits, was not completed by the husband of petitioner No. 1 during his lifetime for about 21 years, therefore, the department cannot be put at fault. It is only in the year 2014, the writ petition was filed by petitioner No. 1, widow of Sh. Baldev Singh Grewal and petitioner No. 2 son of late Sh. Baldev Singh Grewal. Therefore, the delay from 1992 till 2014, cannot be attributable to the department.

After the petitioner No. 1 approached this Court, a direction was issued to the respondents to decide the claim of petitioner No. 1 within a period of two months. The respondents processed the case as per the direction given by this Court on 18.09.2014 in CWP No. 19405 of 2014 and ultimately, released the amount on the dates already mentioned in the preceding paragraph of this order.

Once there was an order to decide the claim within a period of two months, the entitlement of petitioner No. 1 should have been decided the claim of the petitioner within the said period but the respondents took another one and a half year for deciding the claim and resultant release of the benefits. Once the respondents in their reply admitted that the formalities were completed by petitioner No. 1 while submitting the legal notice dated 11.04.2014 then there was no justification for the period of one and a half year which respondents took for release of the said amount. As per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab,*** 1997 (3) SCT 468, the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled to 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 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."*

Furthermore, in the case of ***J.S. Cheema Vs. State of Haryana and others,*** 2014(13) RCR (Civil) 355***,*** this Court had held that an employee will be entitled for the interest of an amount which has been retained by the respondents without any valid justification. 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 view of the above, petitioner No. 1 will be entitled for interest on the amount after the expiry of two years and two moths from the order dated 18.09.2014 passed by this Court in CWP No. 19405 of 2014.

Let the respondents calculate the interest on the delayed payments from 18.11.2014 till the date of release of the actual amount in favour of the petitioners @ 9% per annum. The calculation shall be done within a period of one month from the receipt of certified copy of this order and the actual amount so calculated shall be given to the petitioners within a period of one months thereafter.

The writ petition stands disposed of in above terms.

January 17, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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