

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

(209)

CWP-6823-2017

Date of Decision: November 22, 2019

Jannti

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Arora, Advocate, for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In pursuance to the order dated 21.08.2019, an additional affidavit has been filed by the respondents, alongwith which, the respondents have attached an order dated 21.11.2019. By the said order, the benefits of the family pension has been extended to the petitioner and the same have been calculated starting from November, 1984 till July, 2017 amounting to Rs.10,87,648/-.

Learned counsel for the petitioner argues that only order has been passed but the actual benefits, which have been calculated and attached alongwith the affidavit, are yet to be released to the petitioner.

Learned counsel for the respondents, on the instructions from Mr. Manoj Kumar, Executive Engineer, Faridabad, states that actual benefits will be released to the petitioner within a period of two weeks from today receiving a certified copy of this order.

Learned counsel for the petitioner prays that as the petitioner was entitled for this amount starting from the year 1984 onwards but the respondents have taken 35 years to grant the said benefit though there was no impediment, the petitioner is also entitled for interest on the same.

From the pleadings, no valid justification has come forward as to why, the family pension was not released to the petitioner starting from the year 1984. Further, after the family pension was started in the year 2017, why the arrears were not paid to the petitioner.

Once, there was no impediment in the release of the family pension to the petitioner and the respondents have already decided to release the family pension in the year 2017, there is no valid justification not to release the arrears of the family pension to the petitioner, forcing the petitioner to approach this Court. Because of the inaction on the part of the respondents, petitioner has been forced to litigate and knock the doors of this Court to seek justice, which was being denied to the petitioner without any justification, much less valid justification.

A Coordinate Bench of this Court while deciding **J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782**, has held that in case an amount for which the employee is entitled for, has been retained and used by the department, the employee will be entitled for the interest on the same. The relevant paragraph of the said judgment 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.”

In the present case, the respondents have retained the amount

for more than 35 years and that too without any valid justification and therefore, petitioner will be entitled for interest on the delayed payment @ 9% per annum from the date when the payment became due in November, 1984 till the same were actually released.

Further, petitioner who is a widow lady, has been made to litigate to seek the family pension. The petitioner had no other source of income but to rely upon the family pension to survive after the demise of her husband.

Under these circumstances, petitioner will also be entitled for the costs, which are quantified as Rs.15,000/- to be paid by the respondents.

The writ petition is allowed in above terms. Let the interest for which the petitioner becomes entitled, be computed within a period of two months from the receipt of certified copy of this order and the interest and the costs be paid to the petitioner within a period of one month thereafter.

November 22, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes