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

**(233)** **CWP-6998-2017**
**Date of Decision: August 28, 2019**

**Paramjit Kaur** **.. Petitioner**

**Versus**

**State of Punjab and others** **.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Jagdish Singh Mahal, Advocate, for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

**HARSIMRAN SINGH SETHI, J.(ORAL)**

As per the averments made in the present writ petition, husband of the petitioner was working as a Patwari, who unfortunately died on 25.05.2007 but the family pension was not released to her uptill 31.03.2012. The claim of the petitioner in the present writ petition is for the release of the arrears of family pension from 26.05.2007 till 31.03.2012 alongwith interest.

In the reply filed by the respondents, the respondents have admitted that as there was no sanction given for releasing the pension by the office of Accountant General, Punjab, therefore, the family pension was not released to the petitioner though it is not disputed that petitioner was eligible to get the same immediately after the death of her husband, who died on 25.05.2007. As per reply, sanction to release the pension was received only in the year 2012 since when, the petitioner is being paid the family pension regularly. In respect of the arrears of pension from 26.05.2007 till 31.03.2012, the respondents have stated that the PPO in this regard was issued on 10.08.2010 and sent to the Treasury for payment but the Treasury did not release the same and therefore, as the amount was not released by the Treasury, no liability can be fastened on Administrative Department for the grant of interest.

Learned counsel for the respondents states that during the pendency of the writ petition, a sum of Rs.4,48,249/- has been released to the petitioner on 25.07.2017.

Learned counsel for the petitioner accepts that the amount of arrears stands released to the petitioner but claim that as this amount releates to the period from 25.05.2007 onwards till 31.03.2012 and the same has been released only in July, 2017, i.e. approximately after a period of 10 years, petitioner is entitled for interest on the said amount as there is no valid justification with the department to withhold the same except that the Treasury did not execute the pension payment order sent by the Administrative Department.

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

The only question to be decided by this Court is as to whether, the Administrative Department can be held liable for any inaction on the part of the Treasury in not releasing the amount, which has been sanctioned/affirmed by the Administrative Department. Treasury is an agent of the Administrative Department. Treasury releases the amount on behalf of the Administrative Department, as the liability to pay the benefits to the employee is of the Administrative Department. Any inaction on the part of the Treasury, who is an agent of the Administrative Department, will bind the Administrative Department as well and Administrative Department cannot deny the liability to pay the interest in case the payment is delayed by the Treasury on any ground. The Treasury does not has independent role of making the payment of the pensionary benefits . They are only making the payment on behalf of the Administrative Department and therefore, any act or inaction on part of the Treasury, will make the Administrative Department also liable for the said inaction/action. Therefore, the Administrative Department, in the present case, is held liable to pay the interest for delay in releasing the family pension to the petitioner after the death of her husband.

Admittedly, the pension has been released after a period of 10 years and there is no valid justification even with the Treasury as to why once the payment was sanctioned in the year 2010, it took the Treasury 7 years to release the said amount in favour of the petitioner and that too only after the petitioner approached this Court for a direction to the respondents to release the benefit.

It is a settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468*** that where there is a delay in release of the pensionary benefits, the employee will be entitled for interest, in case there is no valid justification with the department to withhold the said amount. 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. Padmanbhan 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."*

In the present case, no reason has been given by the respondents, which compelled the respondents to withhold the amount except the plea that the amount was not released by the Treasury.

Not only this, 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 Treasury, who was supposed to make the payment, retained the amount and used the same elsewhere rather than making the payment to the petitioner in respect of her settled/admitted claim by the respondents, therefore, the case of the petitioner is also covered by the abovesaid judgment.

In view of the above, the claim of the petitioner for the grant of interest is allowed. Petitioner is held entitled for interest @ 9% per annum from the date the amount became due till the same was released. Let the respondents calculate the interest within a period of two months from the receipt of certified copy of this order and whatever the amount is calculated by the respondents, will be released in favour of the petitioner, within a period of one month thereafter.

The writ petition is allowed in above terms.

**(HARSIMRAN SINGH SETHI)**
**JUDGE**

**August 28, 2019**
*harsha*

Whether speaking/reasoned: Yes
Whether reportable: Yes