

CWP-913-2017

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

CWP-913-2017

Date of Decision: 21.01.2019

Darshan Pal Kaur

... Petitioner

vs.

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chander Kumar Jha, Advocate
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J

In the present writ petition, the prayer is for grant of interest on the delayed payment of the family pension and the benefit for which the petitioner became entitled for after the death of her husband, who unfortunately died while in service in a road accident on 16.11.1988.

The facts which have been stated in the present writ petition are that the husband of the petitioner was working as an Assistant (on deputation) with the Punjab Water Supply & Sewerage Board Circle, Bhatinda. He died in a road accident on 16.11.1998. Petitioner immediately applied for the benefits and submitted all the required documents on 19.12.1988. As per the averments made in the writ petition, the petitioner was paid an amount of Rs.9,18,732/- on 11.07.2013 i.e. after 24½ years after the death of her husband. Similarly, another amount of Rs.5,48,460/- was paid to the petitioner on 12.07.2013. Further, a sum of Rs.11,44,450.56/- was paid to the petitioner. Another sum of Rs.4,52,352/- was paid on 01.10.2013. Another amount of Rs.43,166.07/- was paid to the petitioner on 11.07.2013. Then again, an amount of Rs.11,025/- was paid on 11.07.2013. It is

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contended that amount was released after 24 years of the date it became due.

Learned counsel for the petitioner states that the amount was paid after a period of 24½ years of the death of the husband of the petitioner, therefore, respondents were unable to pay interest also in view of the settled principle of law.

In reply, learned State counsel has submitted that there was a controversy as to whether the petitioner is to be treated as an employee of the Board or of the State so as to enable them to grant the pension. It has been admitted by the respondent(s) that during the pendency of the writ petition, it was decided by the Government to give the pension to the employees of the Board and it was thereafter, the benefits were released to the petitioner. Nothing has been mentioned as to when, this decision was taken.

Heard counsel for the parties.

Once, the respondent(s) have admitted the claim and have paid the amount in the year 2013, it cannot be said that the petitioner was not entitled for this amount. Nothing has been pointed out as to what was the cause for withholding the payment. Details of CWP-9614-1987 titled as **K.L.Garg and other vs. State of Punjab** has been mentioned in para No.2 of the preliminary submission of the reply to say that this writ petition was pending in this Court, due to which, the pensionary benefits were not granted to the employees of the Board. Further, it has been admitted that an undertaking was given in this writ petition before this Court by the Government that the pensionary benefits will be given to the petitioner as given to the similarly situated persons and the writ petition was rendered as infructuous on 01.04.2009. From this statement, it is clear that the petitioner was entitled for the benefits as the same has already been granted to the

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similarly situated persons and, therefore, no benefit of the pendency of the writ petition can be granted in favour of the respondent(s) to withhold the said benefits. Furthermore, the said writ petition was rendered infructuous in April, 2009 whereas the actual payments were made in July, 2013 i.e. after delay of about four years and there is no justification for the same at all.

It is a settled principle of law that once a person is entitled for the benefit, and the same has been withheld without any valid justification, the person is entitled for interest as held by a Full Bench of this Court in **CWP-2883-1997, titled as A.S.Randhawa vs. State of Punjab**, reported as **1997 (3) S.C.T.468**. Further, while deciding CWP-15867-2001, titled as **J.S.Cheema vs. State of Haryana and others**, reported as **2014 (13) R.C.R. (Civil) 355 on 20.11.2013**, this Court has held to the effect that an employee will be entitled for interest on the payment which has been kept by the respondents with themselves. The relevant paragraph of the said judgment is reproduced 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 laying 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 release of the payment clearly depicts that the petitioner was entitled for the payment from the date when her husband died i.e. in the year 1988. The payments have been made after a period of 24½ years without any valid justification. Therefore, the petitioner is held entitled for the

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interest @ 9% from the date her husband has died till the payments were made to her in the year 2013.

Let the calculation of the interest be done by the respondent(s) within a period of two months from the receipt of the certified copy of this order and the actual payment, so arrived at in the calculation, shall also be released to the petitioner within a period of one month thereafter.

The writ petition stands allowed in the above said terms.

21.01.2019
smriti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No