

**CM-7077-CWP-2020; CM-7081-CWP-2020;
CM-7082-CWP-2020 and
RA-CW-159-2020 in CWP-27706 of 2017**

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

**(116) CM-7077-CWP-2020; CM-7081-CWP-2020;
CM-7082-CWP-2020 and
RA-CW-159-2020 in CWP-27706 of 2017
Date of Decision : 07.08.2020**

Ram Rati

....Petitioner

Versus

State of Haryana and others

.....Respondents

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present:- Mr. Narinder Singh Behgal, A.A.G, Haryana
for the applicant-State.**

Harsimran Singh Sethi, J. (Oral)

CM-7081-CWP-2020

This is an application filed under Section 151 CPC for condonation of delay of 52 days in re-filing the review application.

Keeping in view the averments made in the application which is duly supported by an affidavit, the same is allowed. Delay of 52 days in re-filing the review application is condoned.

CM-7077-CWP-2020

This is an application filed under Section 5 of the Limitation Act, 1963 read with Section 151 CPC for condonation of delay of 07 days in

filing the review application.

Keeping in view the averments made in the application which is duly supported by an affidavit, the same is allowed. Delay of 07 days in filing the review application is condoned.

RA-CW-159-2020

Before advertng to the review petition, it is stated here that learned State counsel after arguing the review petition, withdrew the same on realizing that the same was going to be dismissed. After the Court proceedings were over, a request was made by the learned State counsel that he has received the instructions from the department to get an order on merits in review petition. Under these circumstances, the review petition, which was dismissed as withdrawn earlier on the day, is being decided on merits.

The present application has been filed under Order 47 Rule 1 read with Section 151 CPC for review of order dated 18.12.2019 passed by this Court. In the review application, the respondents have stated that order dated 18.12.2019 is liable to be reviewed on the ground that the petitioner had earlier filed a petition being CWP No.6939 of 2009 seeking compassionate appointment for her son, in which a prayer was also made for releasing the monetary benefits admissible to her after her husband's death, who died while in service, alongwith arrears and the said writ petition was allowed by this Court on 20.09.2010 only granting the compassionate appointment to the son of the petitioner. Learned State counsel submits that as there was no order passed by this Court while allowing CWP No.6939 of 2009, granting the pensionary benefits to the petitioner, the petitioner could

not have filed the present writ petition and, therefore, the grant of pensionary benefits to the petitioner alongwith interest is liable to be reviewed.

Probably, the State has filed the review application without going through the actual facts in the present case. It is the State, which granted the pensionary benefits to the petitioner in respect of service rendered by her late husband on its own after reconsidering the claim of the petitioner, which is clear from the paragraph 3 of the written statement as reproduced in order dated 18.12.2019. Keeping in view paragraph 3 of the reply, it was the respondent-State, which itself decided to grant the pensionary benefits to the petitioner in January, 2017, from year 1991 onwards after reconsidering the claim of the petitioner. Hence, the averment of the respondent regarding grant of pensionary benefits by this Court vide order dated 18.12.2019 is factually incorrect.

The only issue which was decided by this Court vide order dated 18.12.2019 was, as to whether in view of the delay in release of pensionary benefits to the petitioner in respect of the service rendered by her late husband, as the same were actually being released in 2019, w.e.f. the year 1991, petitioner will be entitled for interest on those delayed payments or not. In the absence of any valid justification extended by the respondents either in the reply or during the course of hearing, as to why, the pensionary benefits, for which the petitioner was held entitled by the respondent themselves, were withheld by the respondents for a period of 28 years, the interest was allowed on the said delayed payments, keeping in view the settled principles of law noticed in the order dated 18.12.2019,

review of which is being sought.

With regard to the contention raised by learned State counsel while arguing review application that writ petition filed by the petitioner in 2017 was barred by *res judicata*, no such objection was raised in the reply, which was filed by the State. Further, no occasion arose before this Court while hearing the main writ petition to decide the question regarding the maintainability of the writ petition as the same was never raised even during the arguments. Rather, the facts of the case are that respondent-State upon reconsideration of the claim of the petitioner for the release of pensionary benefits in respect of the service rendered by her late husband realized their mistake in January, 2017 and found the petitioner entitled for pensionary benefits and decided to release the same w.e.f. 1991. The writ petition was filed in November, 2017 for the release of the pensionary benefits and by the time of filing the writ petition, the petitioner was already held entitled for the same keeping in view the decision taken in January, 2017 by the respondent. That being so, the question of dismissing the writ petition on the principle of *res judicata* did not arise as present writ petition was filed for implementation of the decision taken by the respondents in January, 2017 for the release of the pensionary benefits w.e.f. 1991 and not for deciding the entitlement of the petitioner for the release of the pensionary benefits for which the petitioner is entitled for in respect of service rendered by her late husband, hence, the review application has been filed without considering the actual facts of the case.

However, the scope of the review petition is very limited.

Nothing has been pointed by learned counsel for the respondent-State as to

which fact, which was already on record, was missed by this Court while passing the order dated 18.12.2019, due to which the said order needs to be reviewed. Nothing contrary to the facts, which have been recorded in the order dated 18.12.2019 has been pointed out by the learned State counsel. Rather, under the guise of the review, the respondents are trying to reargue the case and that too by taking the pleas, which were not even a part of the pleadings when the writ petition was decided on 18.12.2019. That being so, the review petition is not at all maintainable and is liable to be dismissed and is dismissed accordingly.

Even at the time of hearing of the present review application, learned State counsel has not been able to cite any valid justification for not releasing the pensionary benefits to the petitioner for the period of 28 years, though respondent-State found the petitioner entitled for the benefits starting from the year 1991 while reconsidering and allowing her claim in January, 2017. In the absence of any valid justification for the delay in release of the pensionary benefits to the petitioner in respect of the service rendered by her late husband, no ground is made out to review the order dated 18.12.2019 for awarding interest on the delayed payments. Petitioner was denied the benefit of her legitimate claim for approximately 3 decades by the respondents and that too without any valid justification.

In fact, keeping in view the history of this case, it is clear that respondents are intentionally harassing the petitioner, who is a widow. She has been denied her legitimate benefit for last 28 years, though, the respondent-State admitted in the reply that in January, 2017, upon reconsideration, the petitioner was found entitled for the pensionary benefits

w.e.f. 1991 but, the same were still not released to her even thereafter and she was forced to approach this Court by filing the writ petition, which was decided on 18.12.2019. On 19.03.2019 while hearing the main writ petition, Director General State Transport Haryana Roadways was summoned by this Court to explain, as to why, the pensionary benefits, though sanctioned and approved in January, 2017 were not released to the petitioner. It was only when the respondent-State gave an undertaking that the pensionary benefits will be released to the petitioner forthwith, personal appearance of respondent-officer was exempted. It was under these circumstances, especially, when there was no explanation for the delay of 28 years in the release of pensionary benefits to the petitioner, interest was granted by this Court on 18.12.2019. Grounds being raised by the respondents to seek review are non-existent and in fact under the garb of review, respondents are seeking to argue the petition once again, which is not permissible.

In view of the above, review application is accordingly **dismissed**.

Though, as per order dated 18.12.2019, interest was directed to be calculated and released to the petitioner within a period of three months, learned State counsel has admitted that no such payment has been released to the petitioner so far, though the time period granted by this Court has already expired.

The facts noticed above, shows the attitude of the respondents in implementing the order passed by this Court and to harass a widow to deny her the benefits for 28 years. Before filing the review petition, the officer concerned, has to satisfy himself/herself about the necessity of filing

the petition keeping in view the facts and circumstances of the case. In the present case, apparently the review petition is being filed on the basis of the facts which were neither pleaded in the written statement, nor were argued at the time of hearing when the writ petition was decided on 18.12.2019. The officer has filed the present petition without any application of mind ignoring the facts and law applicable in the present case. During these Covid times, this petition which is totally frivolous, has been filed by terming the same as urgent. This cannot be allowed. Thus, the present review application, which actually is an abuse of process of law, is dismissed with cost of Rs.50,000/- to be personally paid by the officer, who has filed the review application. The cost is also being imposed for the reason that during the restricted hearing, the Court time, which could have been used for deciding the other urgent matters, has been wasted for this kind of frivolous petition,. As the present review application has been filed by Mr. Amarinder Singh Manais, General Manager, Haryana Roadways, Chandigarh, the cost will be paid by the said officer from his own pocket, without the same being reimbursed by the State in any manner, to be deposited in Prime Minister Relief Fund to be used for various beneficial schemes being implemented in view of Covid-19 Pandemic. Cost will be deposited by the concerned officer directly from his personal account in the Bank to the Prime Minister Relief Fund and proof of the payment be placed on record within a period of three weeks from today

As the implementing authority of the order dated 18.12.2019 was General Manager, Haryana Roadway, Chandigarh and learned State counsel has admitted that the same is yet to be implemented despite the

expiry of time granted, prima facie the said officer has intentionally and willfully disobeyed the order passed by this Court and, therefore, he has made himself liable to be proceeded under the Contempt of Courts Act, 1971.

Let the suo-moto contempt proceedings be initiated against the said officer so as to seek the explanation as to why, he should not be proceeded against under Contempt of Courts Act, 1971.

Registry is directed to place the same before an appropriate Bench, after obtaining orders from Hon'ble the Chief Justice in this regard.

CM-7082-CWP-2020

In view of the order passed in RA-CW-159-2020, the present application stands dismissed as infructuous.

August 07, 2020
aarti/naresh k.

(HARSIMRAN SINGH SETHI)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>No</i>