IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19291-2017
Date of decision: - 30.01.2020

Ram Rati

....Petitioner

Versus

Punjab State Power Corporation Limited Patiala and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. Karan Bhardwaj, Advocate, for the petitioner.

Mr. Akshay Rawal, Advocate, for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The claim in the present writ petition is for the release of Special Family Pension in favour of the petitioner, which has already been sanctioned in her favour by the respondents themselves, vide order dated 10.07.2015 (Annexure P-3), but as the actual benefits were not released to her, she filed the present writ petition seeking the release of the said Special Family Pension.

As per the averments made in the writ petition, husband of the petitioner, namely, Sh. Chhotu Lal, who was working as an Assistant Lineman with the respondent-PSPCL, unfortunately died while in service on 03.05.2014. After the death of her husband, petitioner became entitled for the release of various benefits in respect of the service rendered by her husband. As the husband of the petitioner died while on duty, petitioner became entitled for the grant of Special Family Pension, which is equivalent to the last drawn salary of the deceased husband of the petitioner till he was to attain the age of superannuation had he been alive. The respondents considered the claim of the petitioner and granted her the benefit including the family pension. Rather than granting the petitioner the Special Family Pension, normal family pension was allowed in her favour. Thereafter, petitioner approached the respondents claiming that as her husband died while on duty, she is entitled for the release of the Special Family Pension.

Vide order dated 20.04.2015 (Annexure P-2), the Special Family Pension was sanctioned in favour of the petitioner in accordance with the pension circular and memo dated 24.06.1986 relating to the grant of pension/special pension. Keeping in view the approval granted for the grant of Special Family Pension on 20.04.2015, the competent authority in continuation with the said letter, passed an order dated 10.07.2015 (P-3) granting the petitioner the Special Family Pension equivalent to the last drawn salary of the deceased employee from 03.05.2014 till 31.01.2025 i.e. the date when husband of the petitioner was to attain the age of superannuation. Though, the Special family Pension was already allowed in favour of the petitioner, but the said order was not implemented by the respondents and after waiting for about two years, petitioner filed the present writ petition seeking a direction from this Court to the respondent-Corporation for the implementation of the order dated 20.04.2015 and 10.07.2015 (Annexures P-2 and P-3).

Upon notice of motion, the respondents have filed the reply.

In the reply, the respondents have mentioned that the Special

Family Pension has already been released to the petitioner, vide order dated 22.07.2019 and apart from the Special Family Pension, even the ex-gratia amount has been released to her on 15.10.2019. As per the reply, even the arrears of the Special Family Pension have been released to the petitioner. The relevant paragraph of the reply is as under:-

> "15-16. That the contents of paras 15 & 16 of the writ petition are wrong, false and hence denied. It is submitted that vide office order dated 22.07.2019, the respondents have calculated the arrears of special pension, which have since been released to the petitioner. A copy of the order dated 22.07.2019 is annexed herewith as Annexure R-1/1. It is further submitted that vide office order dated 15.10.2019, the ex-gratia amount calculated of ₹4 lacs have also been paid to the petitioner. A copy of the said office order dated 15.10.2019 is annexed herewith as Annexure R-1/2 along with its true translation."

Learned counsel for the petitioner does not dispute the receipt of the arrears of the Special Family Pension during the pendency of the writ petition. The only question, which has been raised for the consideration of this Court, is that once the petitioner was entitled for the said Special Family Pension on the date when her husband died on 03.05.2014 and as the same has been released only in July, 2019 after an expiry of more than five years, whether the petitioner is entitled for the interest on the delayed release of the said benefit.

Learned counsel for the respondents opposes the claim of the petitioner for the grant of interest on the ground that once the benefit has already been released to the petitioner, question of interest will not arise as there is no intentional delay on the part of the respondents in release of the said benefit.

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

It has not been denied by the respondents that the Special Family Pension was entitlement of the petitioner after the death of her husband, who died while on duty. Further, it has not been disputed that the said benefit was also allowed in favour of the petitioner by the respondents themselves, vide letter dated and 20.04.2014 read with letter dated 10.07.2015 (Annexures P-2 and P-3). That being so, nothing has been placed on record, which prevented the respondents from implementing their own order, vide which the Special Family Pension was allowed in favour of the petitioner. In the absence any valid reasons brought to the notice of this Court, it can be very well held that there was no valid justification with the respondents not to release the benefit, despite the entitlement of the petitioner, for a period of more than five years, though, the said relief was sanctioned in her favour by the respondents themselves.

A Co-ordinate Bench of this Court in '**J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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, without there being any valid justification, initially the petitioner was not granted the benefit of Special Family Pension and after the grant of said Special Family Pension on paper vide order dated 10.07.2015, the actual benefits were not released to the petitioner. This shows the casualness of the respondents in dealing with the release of the benefit to a widow, who has no other source of income than to rely upon the benefit for the service rendered by her late husband in order to lead a dignified life.

In view of the above, the writ petition is allowed. The petitioner is held entitled for interest @ 9% per annum from the date the amount of Special Family Pension became due till the same was released to her.

Let the calculation of the amount of interest be done within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 30, 2020
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes