233 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23435 of 2018 (O&M)
Date of decision : February 25, 2020

Loveleen Kaur minor through mother Rajinder Kaur .... **Petitioner**

Versus

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

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. H.K. Brinda, Advocate for the petitioner.

Ms. Anju Arora, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present case, the claim of the petitioner is for the release of the family pension in favour of the minor petitioner, for which she has become entitled after the death of her father as, her mother has already solemnized the second marriage.

Learned counsel for the respondents, keeping in view the reply filed by the respondents states that though, the father of the petitioner, died on 27.04.2013 and the mother of the petitioner had contracted the second marriage within a period of seven months of the death of the deceased employee, due to certain procedural process the pension could not be released to the petitioner who is minor, immediately.

Learned counsel for the respondents further states that all the benefits including the family pension along with arrears have already been released to the petitioner in the year 2018.

Learned counsel for the petitioner argues that after the mother of the petitioner had contracted the second marriage in November 2013, the petitioner was entitled for the release of the family pension and other benefits immediately thereafter. As there is delay in the release of payment, which has been released now including leave encashment and other benefit in respect of the services rendered by late father of the petitioner, namely, Yadvinder Singh, as well as the arrears of the family pension, the petitioner is entitled for interest on delayed release of payments.

Learned counsel for the respondents argues that after completion of the formalities, the Administrative Department had already prepared the case and sent it to the Treasury for the release of the benefits to the petitioner, but as the Treasury released the amount after a delay, the Administrative Department cannot be held liable for the same, therefore, the claim of the petitioner is liable to be rejected.

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

The facts as recorded above, are not in dispute. The petitioner became entitled for the grant of family pension and other benefits in November, 2013 when her mother contracted second marriage after the death of her father in April, 2013. Petitioner was a minor at that time. Somebody had to complete the formalities on her behalf, which were completed and the benefits have been released to her during the pendency of the writ petition.

The delay in releasing of the benefits to the petitioner is being attributed by the Department of Education upon the Treasury.

Learned counsel for the respondents argues that it is the Treasury, which released the benefits after a delay and therefore, the Administrative Department cannot be held liable for the grant of interest.

This argument is fallacious. The Treasury only releases the amount on behalf of the Administrative Department being its agent and as the father of the petitioner was serving the Education Department, it becomes the duty of the Education Department to ensure that the benefits in respect of the services rendered by its employee are released to the legal heirs within a reasonable time after the death of the employee. It has taken five years for the petitioner to get the benefits after the death of her father. The said period is much beyond the reasonable time.

A Full Bench of this Court in case of ***"A.S. Randhawa v State of Punjab and others,1997(3) SCT 468"***, has held that the pensionary benefits of an employee are to be released within a reasonable time after the retirement, in case there is no impediment and the reasonable time fixed is two months after the retirement. The said reasonable time has to be imported in case employee dies while in service as well, therefore, the respondent-Department was under obligation to release the benefits in respect of the services rendered by the father of the petitioner as well as the family pension to the petitioner after the mother of the petitioner contracted the second marriage in November, 2013.

Keeping in view the fact that the benefits were released in the year 2018, the said release is much beyond the reasonable time fixed by the Full Bench of this Court in ***A.S Randhawa's*** case (*supra*). Therefore, the petitioner will be entitled for the grant of interest on the delayed release of the benefits, in respect of the services rendered by the late father of the petitioner as well as on the arrears of the family pension which have been released to the petitioner.

The writ petition is allowed.

The petitioner is held entitled for the interest @ 9% per annum from the date the amount, which has been released to the petitioner, became due, till the same was actually released to the petitioner.

Let the respondents calculate the interest under this order within a period of two months from the date of receipt of certified copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

February 25, 2020
sarita
Whether speaking / reasoned Yes
Whether Reportable: Yes