

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP No. 7418 of 2016

Date of Decision : 21.01.2020

Kulwant Kaur

....Petitioner

Versus

Punjab State Cooperative Marketing & Supply Federation Limited and
another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Surinder Garg, Advocate for the petitioner.

Mr. Naresh Gopal Sharma, Advocate with
Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance of the petitioner is that the benefit in respect of the service rendered by her late husband as a Field Sub Inspector with the respondent-Federation, has not been released to the petitioner despite the fact that 20 years have passed after the death of her husband. The prayer of the petitioner is for directing the respondent-Federation to release all the benefits for which she is entitled in respect of the service rendered by her late husband, namely, Balwinder Singh, after his death.

As per the averments made in the writ petition, Sh. Balwinder Singh was appointed as a Field Sub Inspector initially on temporary basis on 29.12.1973. He continued working as such till 09.12.1975, when his services were regularized. Unfortunately, Sh. Balwinder Singh died while

in service on 10.03.1996. After the death of Sh. Balwinder Singh, his son, namely, Sukhpal Singh was given compassionate appointment but the benefits in respect of the service, which Sh. Balwinder Singh had rendered from 09.12.1975 till 10.03.1996 with the respondent-Federation were not released to the petitioner and that too without any valid justification. The present writ petition has been filed by the petitioner claiming the said benefits.

Upon notice of motion, respondents have filed the reply and in the reply, the respondents have stated that there were certain cases of recovery pending against Sh. Balwinder Singh, due to which, the death-cum-retiral benefits could not be released. Learned counsel for the respondents further states that now on 31.10.2019, the benefits amounting to ₹1,25,979/- has been released in favour of the petitioner.

Learned counsel for the petitioner argues that as this amount was due to the petitioner in the year 1996 but the same has been released after an expiry of more than 23 years, therefore, petitioner is entitled for interest on the said amount.

The claim of the petitioner is being contested by learned counsel for the respondent-Federation on the ground that once there were proceedings pending against Sh. Balwinder Singh i.e. the late husband of the petitioner, the withholding of the benefits was within the jurisdiction of the respondent-Federation and, therefore, no interest can be granted to the petitioner.

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

It is not disputed by learned counsel for the petitioner that at

the time of death of her husband, namely, Sh. Balwinder Singh, there were certain proceedings pending against him for recovery of certain losses, which were being attributed to him. Learned counsel for the respondents, however, is unable to show any provision under the relevant Rules to the effect that those proceedings remained in operation even after his death. As per the settled principle of law, all the proceedings, which are pending against an employee, comes to an end upon his/her death. In the present case, proceedings which were pending against Sh. Balwinder Singh for the alleged losses, came to an end upon his death on 10.03.1996, hence, withholding of the benefits by the respondents up to the year 2019 on the basis of the proceedings, which could not have been treated as pending, was without jurisdiction. No rule governing the service has been cited before this Court that even after the death, the proceedings, which were pending against an employee, will continue. That being so, the retaining of the benefits in respect of the service rendered by Sh. Balwinder Singh by the respondents till the year 2019 was without jurisdiction.

Further, the respondents themselves have now released the amount on 31.10.2019. Once, the respondents themselves have released the amount in the year 2019, same amounts to admission by the respondents that the petitioner was entitled for the release of the benefits immediately after the death of her husband. The withholding of the benefit was beyond the jurisdiction of the respondents and, therefore, petitioner is entitled for the grant of interest.

A Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, has held that where an amount

employee is liable to be compensated by the grant of interest. 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, the amount which has been released to the petitioner in the year 2019, should have been released to the petitioner within a reasonable time after the death of her husband in March, 1996. Therefore, petitioner is held entitled for interest @ 9% per annum on the amount, which has been released to her now in October, 2019. Petitioner shall be entitled for interest from the date the amount became due till the actual release of the same.

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

Writ petition is allowed in above terms.

January 21, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? Yes