

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(207)

CWP-34508-2019

Date of decision: - 04.01.2021

Jyoti

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Dr. Sumati Jund, Advocate, for the petitioner.

Ms. Anu Pal, Deputy Advocate General, Punjab.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI, J. (ORAL)

Present writ petition has been filed seeking the release of the benefits for which the petitioner became entitled after the death of her husband, who was serving as a Medical Officer with the State of Punjab.

As per the averments made in the writ petition, Dr. Gurinder Singh i.e. husband of the petitioner, who was serving on the post of Medical Officer at C.H.C. Daroli Bhai, District Moga, unfortunately died while in service on 03.09.2012. Petitioner and her two minors sons are the legal heirs of the deceased Dr. Gurinder Singh.

It is not disputed by the respondents-State that immediately after the death of Dr. Gurinder Singh, petitioner, who is the legal heir, became entitled to receive the benefits in respect of the service rendered by her husband including the family pension. Every effort was made by the

petitioner to convince the respondents for the release the said benefits to her, but it took eight years before the respondents acceded to the genuine request of the petitioner to release the benefits, but not before the petitioner approached this Court seeking a direction to the respondents for the release of the benefits. The benefits in respect of the service rendered by the late husband of the petitioner were only released to her in December, 2020 i.e. after more than eight years of the death of her husband. It is also conceded by the respondents-State that even as of now only the provisional family pension has been allowed to the petitioner.

According to the learned State counsel, during the pendency of the present writ petition, the following payments have been released to the petitioner: -

S. No.		Period	Amount	Bill No. & Date	Date of Sanction	Remarks
1	GPF		3,65,339/-	241 dated 29.12.2015	DHS Letter no G.P.Fu\UND (2) Punjab/2015 3578 dated 26.10.2015	PAID
2	Ex. gratia		1,00,000/-	139 dated 10.07.2013		PAID
3	GIS Insurance		1.20,000/-	145 dated 11.09.2015		PAID
4	GIS Savings		22,312/-	201703011110172 dated 04.09.2020		PAID
5	Leave Encahsment		2,14,335/-	201703011110262 dated 09.11.2020	Director Healldh & Family Welfare, Punjab Chandigarh Endstt.No.E4(5) Pb.2020/6153-56 dated 03.11.20	PAID
6	Provisional Pension	04.09.2012 to 28.02.2013	2,17,036	20170301110168 dated 31.08.2020		PAID
		01.03.2013 to 31.07.2013	45,88,910	201703011110230 dated 11.11.2020		PAID
		01.08.2020 to 31.10.2020	1,54,521	20703011110264 dated 11.11.2020		PAID
7	Provisional DCRG		8,35,906	201703011110170 dated 16.09.2020		PAID
8	Arrears 4/9 year Placement		14,42,261	245 dated 08.01.2020		PAID

S. No.		Period	Amount	Bill No. & Date	Date of Sanction	Remarks
9.	Deposit Linked Insurance Scheme		10,000	201703011110305 dated 31.2.2020	DHS Letter No.G.P. Fund 1(4) Pb./2020/2660 dated 22.12.2020 but received budget on 31.12.2020	PAID
10	Pension Case		Sent to A.G. Punjab Chandigarh vide letter No.Amia-2020/465 dated 05.08.2020 after clearing objections			Pending at A.G. Punjab

Out of the above-said payments, learned counsel for the petitioner only disputes the receipt of amount of ₹10,000/- for which the petitioner is entitled for under the Deposit Linked Insurance Scheme. In case, the said amount is due and has not been released to the petitioner so far, the same be also released to her within a period of four weeks from today.

Learned counsel for the petitioner argues that there is an inordinately delay on the part of the respondents-State in releasing the benefits and though, the benefits along with the arrears have been released to her in December, 2020, but she is entitled for the benefit of interest on the said payments as the delay is attributable to the respondents only.

Learned State counsel has not been able to refute the said allegations. Nothing has been brought on record to show that the delay in the release of the benefits, which is more than eight years, is justifiable or in any manner attributable to the petitioner. In the absence of these facts, it has to be recorded that the delay in the release of the benefits to the petitioner in respect of the service rendered by her late husband as well as the family pension, is attributable to the respondents and the delay in releasing the benefits is without any justifiable cause as well.

Question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this

Court in A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468, wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits, is to be released within a reasonable time and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement. This Court in A.S. Randhawa (supra) has further held that in case, retiral benefits have been retained by the respondents for more than two months from the date of entitlement and that too without any justifiable reason, the employee will be entitled for interest. The relevant paragraph of the said judgment is as under: -

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

The ratio of the judgment has to be applied in the case of the employees, who die while in service. In case, there is no impediment, the benefits needs to be released to the legal heirs of the deceased employees within a reasonable time of two months fixed by this Court in A.S. Randhawa (supra).

Case of the petitioner is fully covered by the ratio of A.S.

Randhawa (supra) as in the present case the delay of eight years in the release of the benefits is not only attributable to the respondents, but is also without any valid justification.

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 (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 petitioner was entitled for the release of the benefits by November, 2012 i.e. within a period of two months after the death of her husband, which have been actually released to her in December, 2020, after a delay of more than eight years. The case of the petitioner for the grant of interest is squarely covered by the settled principle of law enumerated hereinbefore. Accordingly, the petitioner is held entitled for interest @ 9% per annum on the payments which have been released to her now from the date the same became due i.e. 04.09.2012 onwards till the release of the same.

It is further made clear that the provisional pension, which is

being paid to the petitioner, will be paid without any delay and the formalities for the provisional pension to be treated as final pension will be completed within a period of four weeks from today. The benefits including the interest, for which the petitioner is held entitled to under this order, will be computed by the respondents within a period of four weeks from the date of receipt of copy of this order and will be released to the petitioner within a period of two weeks thereafter.

Present writ petition stands allowed in the above terms.

January 04, 2021
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes