IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

270 **CWP-1429-2021**
Date of Decision :13.05.2022

Santosh Biba **..Petitioner**

Versus

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the claim of the petitioner is for the release of the benefits in respect of the services rendered by her deceased husband while performing duty as lecturer Geography.

On the last date of hearing i.e. 09.05.2022, following order was passed by this Court:-

> "Learned counsel for the petitioner submits that the petitioner is being made to run from pillar to post to get the family pension despite there being any impediment in the release of the same. Learned counsel for the petitioner further submits that the office of the Accountant General, Punjab is raising objections, which are not being cleared by the department, due to which, the petitioner is suffering. Learned counsel for the petitioner submits that the husband of the petitioner died in July, 2019 and the petitioner is not getting the family pension for the last two and half years.
>
> This is an extreme position to which the department can go so as to harass the family of a retired employee.
>
> Let Director of Public Instructions (SE), PSEB, Punjab remain present in the Court on the next date of hearing, as to why, the family pension of the petitioner has not been released to her for the last more than two and a half years and why the objections are being raised by the department by

> creating hindrance in the release of the same.
>
> Let copy of this order be sent to Director of Public Instructions (SE), PSEB, Punjab through the office of the Advocate General, Punjab for information and compliance.
>
> It is made clear that in case, family pension of the petitioner is released to the petitioner by the next date of hearing, respondent No.2 need not to come present before this Court.
>
> Adjourned to 13.05.2022."

Learned counsel for the petitioner submits that the benefits, for which, the petitioner was entitled for, have already been released to the petitioner and the only question remains is with regard to the interest on the delayed release of the payments as the husband of the petitioner died in July, 2019 whereas, benefits have been released to the petitioner on various dates starting from May, 2022.

Learned counsel for the respondents submits that the delay which has occurred in the release of the benefits to the petitioner in respect of the services rendered by her late husband was procedural one.

In the present case, it is a conceded position that payments have not been released immediately after the death of the husband of the petitioner. Family pension was released in May, 2022 along with arrears. Only justification being given by the respondents is that the delay was procedural as certain aspects were not clear. Procedural delay cannot be attributed to the petitioner as the same will only be attributable to the respondent-department.

A Coordinate Bench of this Court in of ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. 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 benefits, for which, the petitioner was entitled for, keeping in view the services rendered by her late husband has been withheld and kept by the respondents with themselves and that too without there being any justification. Hence, the case of the petitioner is squarely covered by the above said decision in his favour for the grant of interest on the delayed payment.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the delayed release payments, from the date payments became due till the actual payments will be released to the petitioner. Let the computation of interest be done by the respondents within a period of two months from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of four weeks thereafter.

The writ petition is allowed in above terms.

May 13, 2022 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No