IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(231) **CWP-2197-2021**
Date of Decision : April 21, 2022

Munesh Devi **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mukesh Yadav, Advocate, for the petitioner.

Mr. Narender Singh Behgal, Assistant Advocate General, Haryana.

<u>HARSIMRAN SINGH SETHI J. (ORAL)</u>

In the present petition, the prayer of the petitioner is for the grant of ex-gratia amount keeping in view the death of her husband, who was employed with the respondents and also the benefits for which the petitioner became entitled for including the family pension.

As per the facts mentioned in the petition, the husband of the petitioner namely Narender Kumar was appointed as JBT Teacher on 01.12.2011 and he unfortunately died in a motor accident on 10.04.2018. After the death of her husband, the petitioner completed all the formalities for the grant of ex-gratia pay as well as other benefits so as to maintain herself and two minor children but the respondents did not release the benefits to her, which has led to the filing of the present petition.

Learned counsel for the respondents submits that though reply has not been filed but the payments have been released to the petitioner starting from January, 2021 onwards till March, 2022. Learned counsel for the respondents further submits that the delay which has occured in releasing the benefits to the petitioner was procedural and was not intentional, hence, claim of the petitioner for the grant of interest may kindly be declined.

Learned counsel for the petitioner submits that as the benefits have been extended to the petitioner after inordinate delay of more than four years, the petitioner is entitled for the grant of interest on the delayed release of benefits even if the delay is procedural as the same is attributable to the respondents only.

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

As per the judgment of the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*****,** the retiral benefits are to be computed and released within a period of two months from the date of the retirement, in case there is no impediment. The relevant paragraph of 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 retirer 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 front 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."*

Further, 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, nothing has been brought to the notice of this Court that there was any impediment in release of the benefits which have been released to the petitioner after a delay. In the facts and circumstances, the delay is attributable to the respondents only. They cannot take shelter behind an argument that delay is procedural so as to not grant the payment of interest. If the respondents would acted swiftly, payment of amount could have been done in favour of the petitioner within time. The widow had to survive after the lone bread winner died in a road accident. The plight of the widow can only be compensated at this stage by award of interest keeping in view the settled principle of law noticed hereinbefore.

Resultantly, the prayer of the petitioner is allowed. Petitioner is held entitled for the grant of interest @ 6% per annum from the date the amount became due i.e. 01.06.2018 onwards till the actual date of the payment of the same. Let the computation of interest under this order 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 one month thereafter.

The writ petition is allowed in above terms.

April 21, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes