

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CWP No. 14851 of 2003 (O&M)
Date of Decision : 30.05.2022

Smt. Chanderwati

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sushil Jain, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

Mr. Deepak Balyan, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

CM-1131-CWP-2004

Application is allowed, as prayed for.

CWP-14851-2003

In the present case, the challenge is to the order dated 12.04.2002 (Annexure P-3) by which, husband of the petitioner was prematurely retired from service. The prayer of the petitioner is for release of the family pension for which the petitioner is entitled for after the death of her husband, who, unfortunately, died on 15.05.2002.

Learned counsel for the petitioner argues that as of now, the payments have already been released in favour of the petitioner and the question, which remains to be decided is the interest on the delayed release of the family pension.

Learned counsel appearing on behalf of the respondents submits that the status report with regard to the payments made to the petitioner have already been given in the additional affidavit filed by Sh. Rohtash Bishnoi, Additional Municipal Commissioner, Municipal Corporation, Gurugram dated 22.02.2021, wherein, it has been mentioned that all the benefits for which the late husband of the petitioner or the petitioner after his death, were entitled for, have already been released and the amount as well as the date of release have been mentioned therein. Learned counsel for the respondents submits that keeping in view the facts and circumstances of this case, it cannot be said that the delay in release of the said benefit is attributable to the Corporation and, therefore, prayer of the petitioner for the grant of interest may kindly be declined.

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

The only question, which needs to be adjudicated in the present petition is, whether the petitioner is entitled for the grant of interest on the delayed release of her benefits for which she is entitled after the death of her husband. In para 2 of the status report filed by Sh. Rohtash Bishnoi, Additional Municipal Commissioner, Municipal Corporation, Gurugram, it has been admitted by the respondents that the benefits have been released to the petitioner in the year 2021. Nothing has come on record as to why, once the husband of the petitioner had died in May, 2002, it took 19 years for the respondents to release the benefits. Keeping in view the fact that no justification has come on record to withhold the benefits, it can be safely said that the delay, which has occurred, is attributable to the respondents

themselves. In the reply or in the status report, no impediment in release of

the benefits, for which the petitioner became entitled in the year 2002, but were released in the year 2021, have been mentioned.

During the course of arguments, learned counsel appearing on behalf of the respondent-Corporation has not been able to point out any impediment in the release of the said benefits in favour of the petitioner in the year 2002 itself.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others***, 1997(3) SCT 468, has held that in case, there is no impediment, the retiral benefits should be released within a period of two months of the retirement, failing which the employee will be entitled for interest. 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 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.”

Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant

paragraph of **J.S. Cheema's case (supra)** is as under: -

“In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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.”

Keeping in view the above, the pensionary benefits have been retained by the respondents without any valid justification and were not released to the petitioner without there being any impediment. The petitioner hence, has made out a case for the grant of interest keeping in view the settled principles of law cited here-in-before. The petitioner is held entitled for interest on the payments, which were due to her as on 15.05.2002 but were released after an inordinate delay @ 6% per annum till the release of the same. The interest will be from 15.05.2002 onwards till the actual payment made to the petitioner. Let the interest under this order be calculated by the respondents within a period of two months of the receipt of copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

Petition is allowed in above terms.

May 30, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No