IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(260) **CWP-12968-2021**
Date of Decision : April 27, 2022

Sheela Devi **.. Petitioner**

Versus

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Satpreet Grewal, Advocate, for the petitioner.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Reply on behalf of respondents No. 1 to 3 has been filed in the Court today and the same is taken on record.

In the present petition, the claim of the petitioner is that the husband of the petitioner was working as a class IV employee with the Police Department since July, 1992 on daily wage basis. The services of the husband of the petitioner were regularized by the respondents on 19.10.2011 and thereafter, while in service he unfortunately died on 21.04.2012.

The prayer of the petitioner is that while granting the service benefits to the petitioner, new contributory provident fund scheme is made applicable whereas, as per the settled principle of law settled by the

Division Bench of this Court in ***CWP No.2371 of 2010 titled as Harbans Lal Vs. State of Punjab and others, decided on 31.08.2010,*** the petitioner is entitled for the grant of benefits under the old pension scheme.

As the said benefit was not being granted to the petitioner, the petitioner has filed the present petition seeking the said relief.

After notice of motion, the respondents have filed the reply. In the said reply, the respondents have conceded the fact that the petitioner's case is covered by the judgment in ***Harbans Lal's case (supra)***. The relevant paragraph 4 of the reply is as under:-

> " *4. That on perusal of the contents of para no. 6 of the present writ petition, it has been found that the instant writ petition or the claim of the petitioner is covered by the judgment dated 31.08.2010 (Annexure P-3) passed by this Hon'ble Court in CWP No.2371 of 2010 titled as Harbans Lal and others versus State of Punjab and others. It is further submitted that the deceased husband of the petitioner had rendered daily wages services as dhobi before his regularisation (w.e.f. 09.07.1992 to 19.10.2011)."*

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

Keeping in view the fact that the respondents have conceded the fact that the petitioner is entitled for the grant of the service benefits in respect of the service rendered by her late husband under the old pension scheme, no further adjudication is required on the said aspect. The respondents are accordingly directed to calculate the service benefits for which the petitioner became entitled for after the death of her husband in the year 2012 within a period of two months of the receipt of copy of this order and release the same within a period of four weeks thereafter.

The question which remain for consideration is whether, the petitioner is entitled for the grant of interest on the said delay in payment of benefits or not.

It is a conceded position that on the date when the husband of the petitioner died in the year 2012, the law i.e. ***Harbans Lal's case (supra)*** was settled principle of law and the petitioner was entitled for the grant of benefit even on the said date but the petitioner has been made to run from pillar to post for the last nine years to secure a simple undertaking from the respondents that the petitioner is entitled for the service benefits under the old pension scheme. This shows the attitude of the respondents towards the legal heirs of the deceased employee, who died while serving the respondents-State. Delay of 9 years in release of benefit is attributable upon respondents and respondents have retained these benefits with them and used the said amount to their benefit.

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."

As the respondents conceded themselves that the case of the petitioner is covered under the judgment of ***Harbans Lal's case (supra)*** and the said law was available to be applied upon the petitioner's case in the year 2012 when the husband of the petitioner died, the petitioner will also be entitled for interest on the amount which will be calculated by the respondents under this order @ 6% per annum from the date of death of her husband till the release of the same.

The present petition is disposed of in above terms.

April 27, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No