

Sr.No.241

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14519-2020

Date of decision:16.09.2022

Rajinder Kaur

... Petitioner

versus

State of Haryana and others

... Respondents

Coram: Hon'ble Mr. Justice Harsimran Singh Sethi

Present: Mr. Naveen Jhajholia, Advocate
for Mr. Sanjiv Gupta, Advocate
for the petitioner.

Harsimran Singh Sethi, J.(Oral)

In the present petition prayer of the petitioner is for the grant of family pension after the death of her father who unfortunately died on 18.08.2018.

The claim of the petitioner is that she is a divorcee lady, who was dependant upon her father namely, Sultan Singh, who had retired as a Patwari from the Department of Revenue, Haryana on 28.08.1988 and was in receipt of the pension. As the mother of the petitioner had already died and there was no one else in the family to claim the family pension, after the death of pensioner Sultan Singh the petitioner being a divorced daughter of Sultan Singh, became entitled for the grant of family pension being dependent upon him. As the said family pension was not being extended to the petitioner, the petitioner has filed the present petition seeking a direction to the respondent to release family pension admissible to her alongwith the arrears and interest.

After notice of motion, the respondents have filed the reply wherein it has been mentioned that no claim of the family pension was made by the petitioner and after receiving the notice in the present petition, her claim was considered forthwith and family pension has already been released to her on 19.03.2021 alongwith arrears.

I have heard learned counsel for the parties and have gone through the records.

Parties are agreed that the admissible family pension alongwith arrears have already been released to the petitioner. The grievance which is being agitated by the petitioner is for the grant of interest from the date family pension became due till the actual release of the same.

From the reply it is clear that the respondents after receiving the notice of motion in the present petition considered the claim of the petitioner and granted her the benefit which shows that no document was required to be submitted by the petitioner in respect of the claim and release of the family pension, that being so, the same should have been done immediately after the death of employee. It is not a disputed fact that the petitioner was entitled for the release of family pension, after the death of his father Sultan Singh hence the same should have been released in her favour without any delay.

Further, the question of grant of interest has been settled by the coordinate Bench of this Court while passing the order in ***J.S.Cheema vs. State of Haryana***, according to which in case any amount belonging to the petitioner is retained by the department and used to their favour the pensioner concerned will be

entitled for the grant of pension. The relevant paragraph of the judgment is as under:-

“x—x—x

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.

x--x--x”

In the present case, the amount of family pension which was admissible to the petitioner, has been retained by respondent and used by them, therefore, the petitioner became entitled for the grant of interest in the present case. Accordingly, the petitioner is entitled for interest at the rate of 6% per annum from the date the amount became due till the release of the same. Let the order be complied with within a period of two months from the receipt of copy of this order.

Allowed.

16th September, 2022

[HARSIMRAN SINGH SETHI]

Shivani Kaushik

JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No