

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.12000 of 2016
Date of Decision: 23.09.2022

Smt. Jaswinder Kaur

... 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. Sandeep Singh Mann, Addl. AG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

Learned counsel for the petitioner submits that the prayer of the petitioner in the present petition is for the release of benefits the petitioner is entitled for in respect of the service rendered by her late husband, who was working as a Constable in the Haryana Police and has unfortunately died on 06.12.2006 while in service. He further submits that the benefits for which the petitioner became entitled for including some of the service benefits, which the late husband of the petitioner was entitled for, were released after undue delay for which, the petitioner is entitled for interest on the delayed release of the said payment.

Keeping in view the order passed by this Court dated 19.05.2022 an affidavit has been filed by the Deputy Commissioner of Police, Panchkula wherein, the benefits along with the date on which the same were released has been brought on record. As per the said affidavit, except the payment of GPF and gratuity, the benefits of leave encashment, ex-gratia grant and group insurance were paid to the petitioner within a period of two months of the

death of the employee concerned. The GPF was released to the petitioner after a period of three months whereas some part of the gratuity was released after a period of 11 months of the death. A sum of Rs.29,052/- which was part of the gratuity was released to the petitioner on 22.10.2009. Further, the benefits of the revised pay for which the late husband of the petitioner had become eligible while he was alive and was performing his duties, were also released to the petitioner in August 2009. The revised leave encashment on account of revised pay scales was released to the petitioner in March 2015.

As per the settled principle of law settled by the Full Bench of this Court in *A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468*, an employee is entitled for the release of the benefits after retirement within a period of two months of the retirement in case, there is no impediment, failing which employee is entitled for the grant of interest. The said law needs to be made applicable where, the employee dies while in service but the benefits are not released within a period of two months of the death of the employee.

In the present case, the benefits of GPF, gratuity, revised leave encashment, arrears of salary, were given to the petitioner after a period of two months of the death of the employee which makes the petitioner entitled for the grant of interest as the delay in the release of the benefits has been conceded by the respondents in their affidavit but the same is being attributed to the Treasury Officer, Ludhiana. The release of the benefits is the job of the employer and the Treasury Officer is only an agent of the employer concerned. Hence, the delay which is being attributed to the

Treasury officer, Ludhiana has to be attributed to the department.

Further, a co-ordinate Bench while passing order in CWP-15867-2001 titled as “J.S. Cheema Vs. State of Haryana and others”, decided on 20.11.2013, held that even where an amount has been retained by a Department, which actually belonged to the employee, and has used the same to its benefit, and the employee has suffered prejudice due to the non-release of the said amount, the employee becomes entitled for the grant of interest, so as to compensate him for the said prejudice. The relevant paragraph No.5 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 laying 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”

Keeping in view the above, the claim of the petitioner for the grant of interest on the payment which was released to the petitioner after two months of the death, is allowed @6% per annum from the date the amount became due till the same was actually released.

Let the interest for which the petitioner becomes entitled for

under this order, be calculated within a period of two months from the date of receipt of copy of this order and the amount so calculated be released to the petitioner within a period of one month thereafter.

The petition stands disposed of accordingly.

23.09.2022
manju

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No