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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-12481-2017
Date of Decision: 25.05.2022

Sunita Rani

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Mr. Guninder Singh Brar, Advocate,
for respondent No.4.

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

In the present petition, grievance of the petitioner is that though her husband had died on 12.05.2016, while in service, but the pensionary benefits in respect of the services rendered by her late husband have not been released in her favour by the respondents till now.

Learned counsel for the petitioner very fairly submits that during pendency of the present petition, though the petitioner has been granted the pensionary benefits, for which she was entitled for in respect of the services rendered by her late husband, by the respondents, but the said benefits are extended to her after a delay of stipulated period of two months and that too without there being any impediment in releasing the said benefits in her favour, therefore, keeping in view the settled principle of law laid down by the Full Bench of this Court while passing judgment in ***"<u>A.S.</u>***

Randhawa Vs. State of Punjab and others", 1997(3) SCT 468, the petitioner is entitled for the grant of interest on the said delayed release of pensionary benefits to her by the respondents.

Learned counsel for respondent No.4 submits that the pensionary benefits of the services rendered by the late husband of the petitioner could not be released in her favour immediately after death of her husband as the financial status of respondent No.4-Council was not sound at that point of time and as and when the money was received by respondent No.4-Council, all the benefits, for which the petitioner was entitled for, were extended to her by respondent No.4-Council. Learned counsel further submits that though there is a delay in releasing the said benefits to the petitioner, but as the the same is not intentional, therefore, the petitioner's claim for the grant of interest on the said delayed release of the pensionary benefits in her favour may kindly be declined.

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

As per the judgment passed in **A.S. Randhawa's case** (supra), the pensionary benefits are to be released to the claimant within a period of two months, in case there is no impediment, failing which, the claimant becomes entitled for the grant of interest on the said delayed release of pensionary benefits. The relevant paragraph of the said judgment is as under:-

> *" - x - x -*
>
> *8. 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 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. ...

- x - x -"

Further, a co-ordinate Bench of this Court, 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"

In the present case, the delay in releasing the pensionary benefits to the petitioner is of more than two months, for which she was entitled for in respect of the services rendered by her late husband, by the respondents, as husband of the petitioner died in the year 2016, whereas the said pensionary benefits were released to the petitioner in December, 2019. That being so, once an amount belonging to the petitioner was retained by the respondents, the petitioner becomes entitled for the grant of interest on the said delayed release of pensionary benefits to her.

The question, whether the weak financial status of respondent No.4-Council can be treated as a good ground to withhold the pensionary benefits of the petitioner, for which she was entitled for, has already been answered by the Division Bench of this Court while passing order in **CWP-14426-2003**, titled as ***"Ram Karan Vs. Managing Director, PEPSU Road Transport Corporation and another"***, decided on 16.08.2005, wherein it has been held that weak financial status of an Institution cannot be taken as a valid ground to withhold the benefits of the employee concerned. The relevant paragraph of the said judgment is as under:

"x - x - x

8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as *mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of Chameli Singh v. State of U.P. , has held as under:*

"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society.

xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so

> *as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being..*
>
> *x - x - x"*

Keeping in view the above, the delay in releasing the pensionary benefits to the petitioner, in respect of the services rendered by her late husband, is attributable upon respondent No.4-Council alone and the petitioner has made out a case for the grant of interest on the said delayed release of pensionary benefits to her by the respondents at the rate of 6% per annum from the date the said benefits became due till the date, when the said pensionary benefits were actually released to her.

Let the calculation of the interest under this order be done by the respondent concerned within a period of two months from the date of receipt of the copy of this order and the amount so calculated, be released to the petitioner within a period of four weeks thereafter.

Allowed in the above terms.

25.05.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No