

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110+260)

CWP No. 17651 of 2021 (O&M)

Date of Decision : 05.04.2022

Smt. Dharmo Devi

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.A. Sheoran, Advocate for the petitioner.

Mr. Somesh Gupta, Senior Panel Counsel
for the respondents-UOI.

Harsimran Singh Sethi J. (Oral)

CM-4928-CWP-2022

Present application has been filed for placing on record written statement filed on behalf of the respondents along with Annexure R-1.

Application is allowed and written statement filed on behalf of the respondents along with Annexure R-1 is taken on record.

CWP No. 17651 of 2021

In the present petition, the grievance, which is being raised by the petitioner is that though, after the death of her husband, Partap Singh, who died in War on 29.11.1962, she was sanctioned extra-ordinary family pension but the same was dis-continued by the respondents w.e.f. 03.08.1966 and that too without any valid justification.

As per the averments made in the writ petition though, the

family pension has been restored to the petitioner with effect from the due date but the extra-ordinary family pension which was being drawn by the petitioner after the death of her husband, Partap Singh, has not been restored to her by the respondents and, therefore, the prayer of the petitioner is that appropriate direction be issued to the respondents to restore the extra-ordinary family pension of the petitioner with effect from the date, the same was dis-continued along with arrears and interest.

Notice of motion was issued and the respondents have filed a short reply. The relevant paragraphs 6 and 7 of the reply are as under :-

“6. That Deputy Inspector General Police (Law), Directorate CRPF vide Signal No. J.II-71/2019-LAW-DA-6 dated 17.08.2020 being Administrative Authority in the matter, directed to take decision as per rules and accordingly Inspector General Police, Rajasthan Sector vide Signal No. J.II-2171/2019-RS-Law dated 04.02.2022 directed that above pensioner be granted Extra Ordinary Family Pension as per Rule 12(a) of CCS Pension EOFP Rules.

Hence petitioner Smt. Dharmo Devi wife of Late Shri Pratap Singh 9th Bn, CRPF is hereby granted Extra Ordinary Family Pension w.e.f. 03.08.1966 in accordance with category “B” as laid down in Schedule-II of Extraordinary Pension Rules.”

A bare perusal of the above would show that the respondents upon re-consideration themselves have come to the conclusion that the discontinuation of extra-ordinary family pension extended to the petitioner after the death of her husband, Partap Singh in the year 1962, was wrongly dis-continued and the petitioner was entitled for the said benefit after 03.08.1966 and the said benefit has now been granted by the respondents

vide order dated 15.03.2022.

It may be noticed that prior to the passing of the order dated 15.03.2022, the respondents upon re-consideration, initially came to the conclusion that petitioner is entitled for the grant of normal family pension and not the extraordinary family pension, which was being received by her at the time when the same was withdrawn on 03.08.1966. Arrears of the normal pension were computed and paid to the petitioner in the year 2020. Now, during the pendency of the present petition, the respondents have come to the conclusion that the petitioner is entitled for the grant of extraordinary family pension instead of normal family pension for which, the arrears are being computed and will be paid to her.

Learned counsel for the petitioner, at this stage, submits that the petitioner was denied her legitimate benefit of extraordinary family pension for the last 54 years and, therefore, the petitioner is also entitled for the interest on the arrears of the pension, which will be calculated by the respondents after restoring her extra-ordinary family pension w.e.f. 03.08.1966 and also upon the arrears of pension calculated by the respondents under normal family pension, which was paid to her in the year 2020.

Learned counsel for the respondents submits that the action of stopping the extraordinary family pension of the petitioner was taken by the department after she got re-married. After the fact that the petitioner got re-married with the younger brother of her first husband, keeping in view the provisions of rules governing the aspect of the grant of family pension on re-marriage, the petitioner was found entitled for the extraordinary family pension and, therefore, it was due to a communication gap that the

same has been restored and the action of the respondents was not mala fide but bona fide and was due to the inadvertence, the 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.

From the pleadings placed before this Court, it is clear that petitioner was not at fault at any given point of time rather a war widow has been treated unfairly by the respondents in grant of the family pension. It is not disputed before this Court that even on the day when extraordinary family pension was withdrawn on 03.08.1966, the entitlement of the petitioner subsisted for the grant of the same. That being so, once the petitioner has been restrained from getting the family pension and enjoying the benefit of the same, she needs to be compensated for the same and the grant of interest on the arrears of the family pension paid to the petitioner in the year 2020 as well as the arrears of family pension, which will be computed by the respondents in terms of order dated 15.03.2022, will compensate the petitioner to some extent though not fully. A Co-ordinate 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.”

In the present case, it is clear that the amount belonging to the petitioner was retained and used by the respondents and, therefore, the claim of the petitioner for the grant of interest is also covered by the law cited hereinbefore in the judgment passed in ***J.S. Cheema's case (supra)*** and the petitioner is granted the interest @ 6% per annum from the date the extraordinary family pension was stopped i.e. 03.08.1966 till the date, the amount for which the petitioner has been held entitled for i.e. the extraordinary family pension is released to her. It may be noticed that even with regard to the payment of arrears, which have already been paid to the petitioner while computing the entitlement of the petitioner under normal family pension, paid in the year 2020, the same will also carry interest for the reason that the petitioner was illegally and arbitrarily restrained from using even the said amount by the respondents. Let the calculation of interest under this order be done within a period of two months from the date of receipt of copy of this order and the same so calculated be released in favour of the petitioner within a period of next one month.

Petition is allowed in above terms.

April 05, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

✓
Whether speaking/reasoned : Yes/No

✓
Whether reportable : Yes/No