

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104+256)

CM-14132-CWP-2021 in/and
CWP-17624-2020

Date of Decision : August 04, 2022

Parveen Rani

.. Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Satyam Tandon, Advocate, for respondents No. 1 to 5.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-14132-CWP-2021

As prayed for, the application is allowed.

Replication to the written statement filed on behalf of the respondents is taken on record.

CWP-17624-2020

In the present petition, the prayer of the petitioner is that the service benefits in respect of the service rendered by her late husband be released to her along with interest.

As per the facts mentioned in the petition, Yashpal Sharma was appointed as Assistant Forman with the respondents on 01.02.1972. While working on the said post, he unfortunately died on 16.09.2009. After the death, the petitioner raised a plea for the grant of benefits in respect of the

service rendered by her late husband which benefits were not being extended to the petitioner on the ground that after the death of her husband, certain shortages were found, which were attributed to the late husband of the petitioner and therefore, till the said issue is finalized, the benefits in respect of the service rendered by the late husband of the petitioner, cannot be released to the petitioner. Feeling aggrieved against the said action, the petitioner has approached this Court with a prayer that the respondents be directed to release the benefits which accrued to the petitioner on account of the service rendered by her late husband.

After notice of motion, the respondents have filed the reply, wherein the respondents have stated that after filing of the petition, the benefits in respect of the gratuity and other benefits have been released to the petitioner and as there were shortages found, which were attributable to the deceased husband of the petitioner, the same were found recoverable but later on, on reconsideration, the amount withheld, was paid to the petitioner.

Learned counsel for the respondents submits that no amount for which the petitioner is entitled for in respect of the service rendered by her late husband, has been withheld as of now and therefore, the present writ petition has been rendered infructuous and the same may kindly be disposed of as such.

I have heard learned counsel for the respondents and have gone through the pleadings available on record.

The husband of the petitioner died on 16.09.2009. It is a conceded fact that the gratuity amount for which the petitioner became entitled for, immediately after the death of her husband in the year 2009, has been released to her in the year 2020 after a period of approximately 11

years. Though the amount of gratuity might have been released, the question which arise is whether or not the petitioner is to be granted interest on the delayed release of the gratuity.

As per the judgment of the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, the amount which an employee is entitled for after retirement is to be released 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 relevant paragraph of said judgment is as under:-

“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 retiree 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.”

The same ratio is to be applied where an employee dies while in service, the legal heirs of the deceased employee are to be released the benefits for which they are entitled for within the said required period unless and until there is any impediment, failing which they are entitled for the grant of interest also.

In the present case, there was no impediment in the release of the benefits and therefore, the petitioner is entitled for the grant of interest.

The argument of the learned counsel for the respondents that after the death of the husband of the petitioner, certain shortages were found for which the petitioner was given show cause notice to explain the delay so as to deny the petitioner the benefit of interest cannot be accepted for the reason that a legal heir is not in a position to explain the shortages which are attributable towards a dead employee.

Further, it is a settled principle of law that no proceedings can be initiated against a dead employee. Keeping in view that, issuance of a show cause notice to the petitioner and that too after the death of her husband will not condone the action of the respondents withholding the amount for which the petitioner was entitled for immediately after the death of her husband. It is not the case of the respondents that husband of the petitioner was facing any departmental proceeding at the time of his death. In the facts and circumstances of this case, there was no impediment in release of the benefits to the petitioner in respect of the service rendered by her late husband.

Further, a Coordinate Bench of this Court in *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.”

Keeping in view the above, the claim of the petitioner for the grant of interest on the delayed release of gratuity is held to be valid. Petitioner is held entitled for the interest @ 6% per annum on the gratuity amount from the date it became due till the actual payments were released. Let the computation of interest be done by the respondents within a period of two months from the receipt of certified copy of this order.

The writ petition is allowed in above terms.

August 04, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No