IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(229) **CWP-23281-2018**
Date of Decision : April 26, 2022

Nirmala **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amandeep Singh Manaise, Advocate, for the petitioner.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

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

In the present case, the prayer of the petitioner is to release all the benefits in respect of the service rendered by her deceased husband namely Amarjit Singh including the benefit of ACP after rendering 8 and 14 years of regular service as well as the pensionary benefits which have not been released, along with interest.

As per the averments made in the petition, the petitioner's husband namely Amarjit Singh was working as Lecturer in Commerce at Government Senior Secondary School, Patto Hira Singh, District Moga. On 10.09.2015, he was appointed as Incharge of the said school and he attained the age of superannuation on 30.09.2015. Keeping in view the policy prevalent at the said time, he was granted extension in service for a period of one year upto 30.09.2016. Before the said period came to an end, on

24.08.2016 though a charge sheet was served upon the petitioner but he was granted the second extension which period ultimately came to end on 30.09.2017. Prior to the date when the late husband of the petitioner was to retire, even the charge sheet served upo him was withdrawn on 17.01.2017 but the arrears of the salary for certain period as well as the benefit of ACP after rendering 8 and 14 years of service in the cadre of Lecturer, were not extended to him.

As per the averments made in the petition, the retiral benefits for which the late husband of the petitioner was entitled for, were not released though the same were sanctioned but before the same could be released to him, the husband of the petitioner unfortunately died on 28.01.2018. Thereafter, the petitioner kept on requesting the respondents to release the pensionary benefits but the same were only released to her after a delay. The delay was on the pretext that the bills were cleared and sent to the Treasury for clearance, those were not cleared expeditiously. The present petition has been filed by the petitioner with a prayer that the petitioner be granted interest on the delayed release of the pensionary benefits in favour of the late husband of the petitioner as well as for the release of the ACP after rendering 8 and 14 years of service so as to refix the pensionary benefits of the late husband of the petitioner and grant the arrears to the petitioner.

Upon notice of motion, the respondents have filed the reply and in paragraph 4, the following averments have been made:-

> " *4. That it is respectfully submitted that the following bills has already been submitted in the office of the respondent No.5 i.e. District Treasury Officer, Moga. It is pertinent to*

mention here that there was no delay on the part of the respondents 1 to 4 for submission of bills. The details of the bills are given below (as Appended Annexure R-2/T). It is further submitted that the pension of the husband of the petitioner has been revised vide its order No. Revsion pension-2019/05 Dala Dated 14.03.2019.

Sr. No.	Detail	Bill No./Date	Token No/Date	Amount	Date of Passing
1	D.C.R.G	69/04.10.17	9750/09.10.17	8,77,898/-	22.03.18
2	Leave Encashment	70/04.10.17	9749/09/10.17	5,15,792/-	22.03.18
3	GPF	71/17.10.17	10100/17.10.17	37,31,108/-	22.03.18
4	GIS	86/22.02.18	15451/23.02.2018	44,246/-	26.02.18
5	Salary Arrears	45/05.08.17	07/09/17	2,60,685/-	07/09/17

Further in paragraph 8 of the reply, following averments have been made:-

"8. That the contents of this para 8 are denied being wrong. It is submitted that the petitioner was promoted as Lecturer Commerce vide its order No.11/33-95. It is further submitted that the benefit under ACP Scheme after competing 8 year service falls in the year 22.12.2003 and the benefit under ACP Scheme after completing 9 year falls in the year 01.11.2006 and the benefit under ACP Scheme after completing 14 year falls in the year 23.12.2009, revised entries mentioned in the service book page No. 57. The arrears has already been made to the husband of the petitioner (Copy of service book annexed as annexure R-1/T)."

A bare perusal of the above reply would show that respondents herein conceded that the petitioner's husband was entitled for the grant of ACP after rendering 8 and 14 years of service.

Learned counsel for the petitioner submits that though the petitioner's husband was found entitled for the grant of relief of ACP but the said benefit is yet to be released in his favour.

The claim which is being made by the petitioner, at this stage, is for issuance of a direction to the respondents to pay interest on the delayed release of the pensionary benefits and also for the release of the benefits under the ACP scheme for which the late husband of the petitioner has already been found entitled for, forthwith.

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

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 pensionary benefits within a period of two months from the date of the retirement, in case there is no impediment failing which, employee becomes 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 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 front 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."*

In the present case, the details of the payment, which has been admitted by the respondents themselves, show that there is a delay of approximately six months in release of the pensionary benefits. No impediment has been brought to the notice of this Court, which gave the jurisdiction to the respondents to withhold the pensionary benefits. The case of the petitioner is covered for the grant of interest on the decision of the judgment of this Court in ***A.S. Randhawa's case (supra)***.

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

With regard to the grant of benefit of ACP, the respondents have considered the claim of the petitioner in the reply. That being so, in case, the same has already not been released to the petitioner, the benefits be released within a period of two months from the receipt of copy of this order along with arrears.

Keeping in view the above, the present petition is allowed. Petitioner is held entitled for the interest @ 6% per annum from the date the amount became due till the release of the same to her. Let the computation of interest be done by the respondents within a period of eight weeks from the receipt of certified copy of this order and the amount so calculated shall be paid to the petitioner within a period of one month thereafter.

It is made clear that with regard to the ACP, the same be released within above mentioned period along with arrears.

April 26, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No