

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(246)

CWP-23467-2018

Date of Decision : May 19, 2022

Radha Krishan

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anil Kumar Sharma, Advocate, for the petitioner.

Mr. Narender Singh Behgal, Assistant Advocate General,
Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner has not been given the service benefits in respect of service rendered by his wife Smt. Bhagti Devi, who was working as JBT Teacher with the respondent-School and unfortunately died while in service on 29.02.2000.

Learned counsel for the respondents submits that the petitioner has been granted the benefits including the family pension and death cum retiral gratuity, which have been released to him on 30.12.2019.

Learned counsel for the petitioner submits that as the wife of the petitioner had died on 29.02.2000, the benefits have been released to the petitioner after a period of approximately 19 years and hence, the petitioner is entitled for the grant of interest on the delayed release of benefits.

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

In the present petition, it is not in dispute that the petitioner is entitled for the service benefit in respect of the service rendered by his late wife namely Smt. Bhagti Devi. It is also not in dispute that wife of the petitioner died on 29.02.2000 whereas, the benefits have been released to the petitioner in December, 2019. Nothing has come on record to show as to on what account, the respondents have withheld the pensionary benefits of the petitioner for a period of 19 years. The respondents had released the same on their own without there being any direction from the competent Court of law meaning thereby that even as per the respondents, the petitioner was entitled for release of these benefits at the time of the death of the wife of the petitioner in the year 2000 itself. The delay in release of the amount is squarely attributable to the respondents as no justification has been given by the respondents in withholding the same by them for a period of 19 years.

The arguments which has been raised by the learned counsel for the respondents that succession certificate was given to the Department in the year 2016, will not come to the rescue of the respondents for the reason that no rule has been brought to the notice of this Court that succession certificate is required for the release of pensionary benefits. Even otherwise, once the name of the petitioner stood mentioned in the service record of the respondents as a nominee/husband of the deceased, the petitioner was entitled for the grant of the benefit immediately upon the death of the deceased employee being the husband.

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 prayer of the petitioner is allowed. Petitioner is held entitled for the interest @ 6% per annum on the retiral benefits from the date it became due till the release of the same. Let the calculation of interest be done by the respondents within a period of two months 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.

The writ petition is allowed in above terms.

May 19, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No