IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24274 of 2021
Date of Decision:-24.03.2022

Deepali Sharma and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.K. Arora, Advocate
for the petitioners.

Mr. Kannan Malik, AAG, Punjab
assisted by Mrs. Rekha Rani, Principal,
Government Senior Secondary School, Basti Danishmandan,
Jalandhar.

HARSIMRAN SINGH SETHI J.(Oral)

The present petition has been filed for the grant of interest on the delayed release of pensionary benefits, which were released to the petitioners on account of the service rendered by their late mother, namely, Pratibha Sharma.

As per the averments made in the present petition, the mother of the petitioners, namely, Pratibha Sharma was working as Hindi Mistress in the Punjab Education Department and while in service she unfortunately died on 13.11.2018. At the time when the mother of the petitioner died, she was a divorcee and the only claimants for the family pension are both the petitioners i.e. her daughter and son respectively.

As per the averments made in the petition, certain payments such as ex-gratia and GIS were released to the petitioners in January/February 2019 as well as provident fund and leave encashment were released to the petitioners on 10.04.2019 but the family pension has still not been released, though the same has already been approved by the competent authority on 14.12.2021. The prayer of the petitioner is for the grant of interest on the delayed payments and for direction to the respondents to release the arrears for family pension alongwith interest.

Upon notice of motion, the respondents have filed the reply, wherein, it has been mentioned that certain payments were released to the petitioner within a period of three to four months of the death of the mother of the petitioners but the family pension could not be released due to the non-receipt of Legal Heirs Certificate from the office of the Deputy Commissioner concerned as the same was received on 29.7.2019, the same was processed and the family pension was approved by the competent authority on 14.12.2021 and is in process to be released as of now.

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

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***, employee/claimant(s) (as the case may be) are entitled to receive the pensionary benefits within a period of two months of the entitlement, failing which, the delayed release of amount has to carry 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."*

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."*

A bare perusal of the above shows that the delay in releasing the benefits in the present case is more than two months from the date of death of the mother of the petitioners. With regard to the arrears of pension, the same is yet to be released. No justifiable reason has come before this Court that once the Legal Heirs Certificate was received by the respondents in the month of July, 2019, why even after expiry of more than 1-½ years thereafter, the family pension has not been released to the petitioners. In the absence of any justifiable reasons, it can be safely presumed that the delay is on the part of the respondents in releasing the benefits to the petitioners, which will make them entitled for interest keeping in view the law cited hereinbefore.

Keeping in view the above, a direction is issued to the respondents to release the arrears of pension to the petitioners within a period of one month from today. It is further directed that all the benefits, which have been released to the petitioners, will carry interest @6% per annum from 01.01.2019. Let the computation of interest be carried out within a period of two months from today and the interest so calculated be released to the petitioners within a period of one month thereafter.

Allowed.

March 24, 2022 **(HARSIMRAN SINGH SETHI)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No