

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104+260)

CM No.16559 of 2023 in/and
CWP No.1007 of 2020 (O&M)
Date of Decision : 09.10.2023

Deepak Sharma and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Nagpal, Advocate for the petitioners.

Mr. Harish Nain, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM No.16559 of 2023

Application is allowed.

Replication is taken on record.

CWP No.1007 of 2020

The present petition has been filed challenging the order dated 05.11.2019 (Annexure P-7) by which, the prayer of the petitioners for the grant of interest on the delayed payment has been withdrawn.

Certain facts may be mentioned for the correct appreciation of the issue in hand.

The father of the petitioners, who was working as a Clerk in the department of Excise and Taxation, Haryana got involved in an FIR No.426

dated 15.11.1999. Ultimately, father of the petitioners was convicted by the competent Court of Law vide order dated 10.11.2010 and was awarded punishment of one year rigorous imprisonment along with fine of ₹8,000/- vide order dated 11.11.2010. On the basis of the conviction, the father of the petitioners was dismissed from service w.e.f. 11.11.2010. Against the order of conviction, the father of the petitioners along with the other co-accused filed an appeal but during the pendency of the appeal, father of the petitioners died on 30.10.2011. Later on, vide order dated 26.03.2014, the other co-accused were acquitted by the Appellate Court.

Upon acquittal, mother of the petitioners made a request for the grant of benefits by withdrawing the order of dismissal of service of late husband and on the basis of the said request, ultimately vide order dated 25.07.2018, the order terminating the services of the father of the petitioners was withdrawn. As the father of the petitioners had died on 30.10.2011, the respondents calculated the amount which the legal heirs of the deceased employee, namely, Surender Kumar, were entitled for and the same were released starting from October, 2018 onwards till May, 2019. By the time, the benefits were released to the family, even mother of the petitioners unfortunately died on 29.06.2019 and the present petition has been filed claiming the interest on the delayed release of the benefits.

Learned counsel for the petitioners argues that the right accrued in favour of the petitioners to get the benefit after the acquittal was granted by the competent Court of law qua the other co-accused, which benefit of the acquittal has been granted to the late employee vide order dated 25.07.2018 hence, as the respondents kept the matter pending for more than four years with them to decide the claim, the petitioners are entitled for interest on the

delayed release of the benefits in respect of the service rendered by late Surender Kumar.

Learned State counsel objects to the claim on the ground that the order dismissing the father of the petitioners from service passed in the year 2010, was only withdrawn on 25.07.2018 and immediately thereafter, the claim of the petitioner for the release of the benefit in respect of the service rendered by their father was considered and the benefits were given starting from October, 2018 onwards till May, 2019 therefore there is no inordinate delay in the release of benefits as per the facts and circumstances of the present case so as to award the interest also to the petitioners.

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

It is a matter of fact, which is also conceded by the respondents that after the acquittal of the co-accused, nothing remained against late Surender Kumar so as to support the order dismissing him from service and it is also a conceded fact that the wife of Surender Kumar i.e. mother of the petitioner, had immediately filed an application seeking the benefits from the respondents. The respondents took their own time to decide the claim of the petitioners i.e. four years and three months to grant the benefit so as to withdraw the order of dismissal and to grant the service benefit in respect of the dependents of Surender Kumar. Once the respondents have taken the time which is inordinate keeping in view the facts and circumstances of the present case, the petitioners have been caused prejudice in release of the benefits, which needs to be compensated by the grant of interest.

Even for a retired employee, as per the settled principles of law settled by the Full Bench of this Court in **AS Randhawa Vs. State of**

Punjab and others, 1997(3) SCT 468, in case there is no impediment, the benefits are to be released within a period of two months from the date of retirement, failing which employee is to be compensated with 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.”

By applying the ratio of the said judgment in the present case, the respondents were under an obligation to release the benefits by taking appropriate decision on the claim of the dependents of Surender Kumar within a period of two months from the date he was acquitted. Once the respondents have taken four years and three months to decide the said claim and the benefits were only released thereafter, the petitioners cannot be blamed as the delay is on the part of the respondent-department only.

Even otherwise, as per the judgment of a Coordinate Bench of this Court in **JS Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, wherein an amount belonging to an employee has been retained by the department and used, the employee is entitled for the grant of interest. The relevant paragraph of the said judgment 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.”

The claim of the petitioner is squarely covered not only by the facts but also on the settled principle of law noticed hereinbefore hence, the petitioners are held entitled for the grant of interest @ 6% per annum on the delayed release of the service benefits and the interest must be paid starting from 01.09.2014 onwards keeping in view the fact that the petitioners had informed the respondents about the acquittal on 08.07.2014, till the date the actual payments were released. Let the interest for which the petitioners become entitled for be calculated within a period of two months from the receipt of a certified copy of this order and the amount so calculated shall be paid to the petitioners within a period of one month thereafter.

The writ petition is allowed in above terms.

October 09, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No