IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(237) **CWP No. 1265 of 2020**
Date of Decision : 22.08.2023

Smt. Darshani Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vaishali Kamboj, Advocate for
Mr. R.S. Budhwar, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

Mr. Ravi Sharma, Advocate for respondent No. 2.

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<u>Harsimran Singh Sethi J. (Oral)</u>

1. The present petition has been filed for the grant of interest on the delayed release of the pensionary benefits.

2. The husband of petitioner, namely, Prithvi Singh was working with the Department of Food & Supplies and he, unfortunately, died on 30.04.2008 while in service. After the death, the benefits for which the petitioner become entitled for, were to be released to her but the respondents did not release the entire benefits on the ground that certain amount is due against the husband of the petitioner in regards of Scooter dues, which were liable to be recovered from the benefits to be released after his death. In the year 2009, from the leave encashment

admissible, the said dues had already been recovered and even a No Due Certificate was issued by the Administrative Department for release of the benefits on 20.01.2009.

3. Learned counsel for the petitioner argues that despite the fact that there was no due pending against Prithvi Singh as on 20.01.2009 but the certain benefits were only released to the petitioner in the month of April, 2018 i.e. after 10 years of the death of Prithvi Singh, hence, petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

4. Upon notice of motion, the respondents have filed the reply. The Administrative Department in their reply filed, have conceded the fact that the amount of loan was already adjusted from the leave encashment admissible to the husband of the petitioner as far back as in January, 2009 and the request was made to the office of the Accountant General to approve the release of the pensionary benefits but as there was a delay in granting the approval, the benefits could not be released but now, the benefits have already been released in favour of the petitioner in April, 2018, hence, as the delay is on the Department of Accountant General, Haryana, no interest is liable to be paid by the Administrative Department.

5. Learned counsel appearing on behalf of the Accountant General, Haryana submits that certain documents were not supplied by the Administrative Department for the grant of approval for the release of benefits and it was under these circumstances, the case remained pending

for approval and as and when, all the formalities were completed by the Administrative Department, the approval was granted, hence, the delay in getting the pensionary benefits approved and released to the petitioner is attributed upon the Administrative Department.

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

7. In the present case, it is a conceded fact that on the date when the husband of the petitioner died, there was no impediment in the release of the pensionary benefits for which, the petitioner was entitled for in respect of the service rendered by her late husband. It is only due to the inaction on the part of the Administrative Department or the Accountant General, Haryana, as the case may be, the benefits could not be released to the petitioner due to the non-grant of approval by the Department of Accountant General, Haryana. The petitioner cannot be made to suffer for the delay as the same is either on the Administrative Department or on the Accountant General, which matter is to be decided by the department inter se.

8. 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 grant of pensionary benefits within a period of two months of the retirement in case, there is no impediment, failing which, the employee is entitled for interest. The relevant paragraph of the 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."

9. The ratio of the said judgment is fully applicable in the present case as, on the date when the husband of the petitioner died in April, 2008, there was no impediment in the release of the pensionary benefits in respect of the service rendered by the late husband of the petitioner, hence, the respondents were under obligation to release all the benefits within a period of two months, whereas the respondents took 10 years to release the same, hence, the petitioner is entitled for the grant of interest on the delayed release of the pensionary benefits.

10. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. 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."*

11. Keeping in view the above, the claim of the petitioner for the grant of interest is allowed. The petitioner is held entitled for interest @ 6% per annum from the date, the benefits were liable to be released to the petitioner upto the date when the same were actually released. Let the respondents calculate the amount of interest for which the petitioner becomes entitled for under the present order and the same be released to the petitioner within a period of two months.

12. The said release of the benefit by the Administrative Department will be without any prejudice to their claim of the interest from the Department of Accountant General, Haryana. This Court is not expressing any opinion on the said issue, which needs to be decided inter se by the departments concerned.

August 22, 2023 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No