

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CWP-8473 of 2019 (O&M)  
Date of Decision:15.02.2023

Smt. Nirmala Devi

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Sushil Sheoran, Advocate,  
for the petitioner.

Mr. Karan Kumar Jund, Advocate,  
for respondents.

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**JASGURPREET SINGH PURI, J. (Oral)**

The present petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus* for directing the respondent to grant interest @18% on the delayed payments to the petitioner.

Learned counsel for the petitioner submitted that is a 3<sup>rd</sup> round of litigation by the petitioner who is a widow of a late Constable who was serving in the CISF. He submitted that the husband of the petitioner had died on 02.05.2000 as Constable in CISF and thereafter the pensionary and retiral benefits were paid to the petitioner being widow of the aforesaid Constable Shri Rameshwar Dayal. However, the petitioner was also entitled for two more payments under the head of ex-gratia and extraordinary family

pension, but the respondents did not pay the same to her for the reasons best known to them. Thereafter, the petitioner was constrained to file CWP No. 5362 of 2018 and this Court vide order dated 06.03.2018 vide Annexure P-2 directed the respondent-Union of India to look into the grievances unfolded by the petitioner in the legal notice and to decide the same as per rules, regulations and instructions issued by the Government from time to time within a period of two months. Thereafter, the said order was not complied with by the respondent-Union of India and therefore in the second round of litigation, the petitioner was constrained to file COCP No. 2601 of 2018 and the same was thereafter dismissed vide Annexure P-3 on 24.01.2019 in view of the fact that the respondent-Union of India had stated that ex-gratia lumpsum compensation has been released in pursuance of the order dated 17.10.2018. In the aforesaid order, it was also observed that since learned counsel for the petitioner had stated no interest had been granted and if it is so, then the petitioner would be at liberty to avail the remedy as available in law for seeking the amount of interest. Since the amount was paid to the petitioner at a belated stage without any justification, the petitioner has thereafter now filed the present writ petition seeking interest on the delayed payment on the aforesaid two components.

Learned counsel for the petitioner submitted that in the present petition the claim is only for grant of interest on the delayed payment which has been paid to the petitioner on 28.09.2018 whereas it actually accrued to the petitioner on 02.05.2000. He submitted that the petitioner is entitled for the grant of interest on the aforesaid delayed payments.

On the other hand, Mr. Karan Kumar Jund, learned counsel appearing on behalf of the respondents submitted that after the death of the husband of the petitioner, all the retiral benefits were paid to the petitioner in time but ex-gratia and extraordinary family pension was not paid to her but now after the filing of the earlier writ petition by the petitioner before this Court and also the contempt petition, the amount under the aforesaid two heads, i.e. ex-gratia and extraordinary family pension has been paid to the petitioner on 28.09.2018. He submitted that the petitioner is not entitled to the interest in view of the fact that the petitioner had made a claim for the same at a belated stage before the filing of the first writ petition by way of a legal notice and therefore she is not entitled for the grant of interest.

I have heard the learned counsels for the parties.

The facts with regard to the payment given to the petitioner are not in dispute. The husband of the petitioner died on 02.05.2000 and she was paid the retiral benefits but she was not paid ex-gratia and extraordinary family pension. After the filing of earlier writ petition and also the contempt petition by the petitioner that the same was paid to her on 28.09.2018. It is not in dispute in the present case that the right to receive the aforesaid payment under the aforesaid two heads accrued to the petitioner at the time when her husband had died in the year 2000. During the course of arguments, learned counsel for the petitioner has referred to a judgment of a Division Bench of this Court in **LPA No. 2111 of 2016 (O&M), titled as Sunita Bali versus Union of India and others**, to contend that it was rather incumbent upon the respondent authorities

themselves to have correctly determined the entitlement of the appellant and for this purpose she was never required to make a specific demand of the nature of her entitlement and the subject matter of the aforesaid LPA was also extraordinary family pension and ex-gratia amount and even on the facts the case of the present petitioner was covered by the aforesaid judgment of this Court in **LPA No. 2111 of 2016 (O&M), titled as Sunita Bali versus Union of India and others**. However, learned counsel for the respondents has relied upon a judgment of the Hon'ble Supreme Court in **Union of India and others versus Tarsem Singh** 2008 (8) SCC 648, to contend that the arrears and the interest can be limited only to three years preceding the Justice Demand Notice.

So far as the judgment of the Supreme Court in *Tarsem Singh's* case (supra) is concerned, that judgment was pertaining to the grant of disability pension. However, a Division Bench of this Court in *Sunita Bali's* case (supra) dealt with specifically with the grant of ex-gratia and extraordinary family pension and therefore the prayer of the present petitioner is squarely covered by the judgment of Division Bench of this Court in *Sunita Bali's* case (supra), wherein the interest was granted from the initial time when the husband of the petitioner had died. Therefore, this Court is of the view that since the case of the petitioner is squarely covered by the ratio of the aforesaid judgment in *Sunita Bali's* case (supra), the present writ petition deserves to succeed. Consequently, the present petition is allowed. The respondents are directed to calculate the interest on ex-gratia and extraordinary family pension from 02.05.2000 till the date of its

disbursement, i.e. 28.09.2018 @ 6% per annum and be paid to the petitioner within a period of four months from today.

In case the same is not paid to the petitioner within the aforesaid period of four months from today then the petitioner shall be entitled for future interest @9% per annum instead of 6% per annum.

Since the petitioner being a widow had to approach this Court thrice for redressal of her grievances, the petitioner shall also be entitled for the costs. The respondents shall also pay the costs of Rs.20,000/- to the petitioner within the aforesaid period of four months from today.

(JASGURPREET SINGH PURI)  
JUDGE

February 15, 2023  
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| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |