

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-10650 of 2015

Date of Decision:10.04.2023

Pushpa Devi

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.K. Rattan, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.1 to 4.

Mr. H.S. Jugait, Advocate,
for respondent No.5.

JASGURPREET SINGH PURI, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of *mandamus* directing the respondents to grant the pension and other pensionary benefits to the petitioner.

Learned counsel for the petitioner submitted that all the retiral benefits have been paid to the petitioner at the time of her retirement except for the payment of pension which was not paid to the petitioner. However, during the pendency of the present petition even the pension has now been paid in the month of February 2020. He submitted that even in the reply which has been filed by the State of Punjab, no stand has been taken by the State that at the

time of retirement of the petitioner, the petitioner was not eligible for the grant of pension. Even in the reply which has been filed by the Accountant General, Punjab, no such stand has been taken and rather it has been stated by the Accountant General that a proposal was sent to the State and directions were sought from the State with regard to the payment of pension. He submitted that the entitlement of the petitioner for grant of pension was given to the petitioner by virtue of the judgment of this Court in **Charan Dass Sharma versus State of Punjab and others** (CWP No.19832 of 2003, date of decision 09.07.2004) (Annexure P-3) which was of the year 2003 and the petitioner was found to be entitled for grant of pension having served more than 10 years and that was the reason as to why in the year 2020 pension was paid to the petitioner but it was with delay of more than 12 years for which there is no justification in the reply which has been filed by the State and therefore the petitioner is entitled for the grant of interest on the delayed payment in view of the law laid down by a Full Bench judgment of this Court in **A.S. Randhawa versus State of Punjab and others** 1997(3) SCT 468.

On the other hand, Ms. Akshita Chauhan, learned DAG, Punjab submitted that as per the reply which has been filed by the State, a judgment of this Court in **Sweety Badwal and others versus State of Punjab and others** (CWP-185 of 2014, date of decision 16.12.2016) wherein the action of the State with regard to subject-wise seniority was set aside and fresh directions were issued by also considering the earlier judgment of a Division Bench of this Court in **Neelam Rani versus State of Punjab** 2010 (2) RSJ 70 (P&H) (DB) whereby there has to be a merger of male and female cadre (master and

mistress). She submitted that since the seniority of the petitioner was to be re-fixed, there was a delay in the grant of pension to the petitioner.

I have heard the learned counsel for the parties.

The petitioner had retired on 31.01.2007. All the benefits were paid to the petitioner except for the payment of pension. It is not the case of the State nor it has been so stated in the reply which has been filed by the State that at the time of retirement of the petitioner, she was not entitled for the grant of pension. During the pendency of the present writ petition, pension has been granted to the petitioner in February 2020 and for the delayed payment there is no justification given in the reply which has been filed by the State. It is a settled law that pension is a Constitutional Right under Article 300-A of the Constitution of India. In the absence of any justification given in the reply filed by the State or as argued by learned State counsel, the delay in giving the pension to the petitioner is not justified. Consequently, the present petition is partly allowed. The petitioner shall be entitled for the grant of interest @6% per annum on the pension from the date of its accrual i.e. on 31.01.2007 till the date of its disbursement.

The aforesaid amount shall be calculated and paid to the petitioner within a period of four months from today.

(JASGURPREET SINGH PURI)
JUDGE

April 10, 2023

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Whether speaking : Yes/No
Whether reportable : Yes/No