

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-13171 of 2016 (O&M)

Date of Decision:17.02.2023

Vicky and others

.... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sumeet Brar, Advocate, for
Mr. Puneet Kumar Bansal, Advocate,
for petitioners.

Ms. Lavanya Paul, DAG, Punjab

Mr. Sumit Abrol, Advocate,
for respondent No. 4.

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 release the remaining family pension, gratuity, leave encashment and provident fund etc. benefits to the petitioners alongwith interest @ 18% per annum.

Learned counsel appearing on behalf of the petitioners has submitted that the mother of the petitioners was working as Safai Sewika in the office of respondent No. 4 Municipal Council and she unfortunately died on 20.11.2013. Thereafter, the petitioners, who are the children of the

aforesaid deceased, were entitled for the retiral benefits. He submitted that the retiral benefits which accrued to their deceased mother but were not given to the petitioners and therefore the petitioners had filed the present petition in the year 2016. However, during the pendency of the present petition, the retiral benefits have been given to the petitioners. He submitted that so far as the leave encashment is concerned, the same was given to the petitioners on 27.03.2017 and so far as the provident fund is concerned, it was given on 07.03.2017 which was with the delay of more than 3 years. However, at that time the gratuity was not released to the petitioners and therefore on 21.01.2020 the learned counsel for the respondent No. 4 Municipal Council had rather stated before this Court that the petitioners will be entitled to gratuity with interest and the same will be released to them within a period of three months and this Court had directed that this undertaking be complied with and the consequential order to be placed on record. Thereafter, neither any order was passed nor the gratuity was paid and therefore this Court had rather directed the Executive Officer, Municipal Council to remain present in the Court vide order dated 17.01.2023. Mr. Sanjay Bansal, Executive Officer, Municipal Council, Ferozepur has stated that now the gratuity has been paid on 30.01.2023 and he further stated that the total principal amount of the gratuity was Rs.1,58,004/- and it has been paid alongwith interest of Rs.28,180/-which is at a much lower rate of interest and according to him it comes to around 1.9%. Learned counsel for the petitioners submitted that now the scope of

the present petition is limited only to the extent of payment of interest on the delayed payments.

On the other hand, Mr. Sumeet Abrol, learned counsel appearing on behalf of respondent No.4 has submitted that now the gratuity has been paid on 30.01.2023 alongwith interest of Rs.28,180/-. He submitted that the aforesaid interest of Rs.28,180/- is @ 6% per annum but it has been given from 21.01.2020 when the learned counsel for respondent No.4 has made a statement before this Court.

I have heard the learned counsels for the parties.

The dates in the present case are not in dispute. The mother of the petitioners had died on 20.11.2013 as Safai Sewika. The present petition was filed in this Court in the year 2016. Leave encashment has been given on 27.03.2017 and provident fund has been given on 07.03.2017 and now gratuity has also been paid on 30.01.2023 but interest @6% has been paid only from 2020.

This Court is of the view that there is no justification as to why interest has been paid only with effect from 21.01.2020 wherein the right of the petitioners to receive gratuity had accrued at the time of death of their mother in the year 2013.

In view of the aforesaid facts and circumstances, the present petition is partly allowed. The petitioners shall be entitled for the grant of interest @ 6% with effect from 20.11.2013 at the time when the right was accrued to them on the payments, i.e. leave encashment, provident fund and gratuity. The interest on the gratuity amount already paid shall be

adjusted in the aforesaid amount. The respondent No. 4 is directed to calculate the interest and thereafter shall be paid to the petitioners within a period of four months from today.

In case the aforesaid amount is not paid to the petitioners within the aforesaid period of four months, then the future rate of interest shall be applicable @ 9% instead of 6% per annum.

(JASGURPREET SINGH PURI)
JUDGE

February 17, 2023

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