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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CWP-9022-2017 (O&M)
Date of Decision: 25.04.2023**

Poonam

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aditya Yadav, Advocate,
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel,
for the respondents.

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JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ especially in the nature of *mandamus* directing the respondents to grant the *Ex Gratia* Lump Sum Compensation and Extra Ordinary family pension to the petitioner instead of ordinary family pension with interest as her husband died on active duty in General Reserve Engineering Force (GREF).

2. Mr. Aditya Yadav, learned counsel for the petitioner has submitted that although the second prayer made in the petition is for grant of extra-ordinary family pension but since the petitioner has been granted the benefit under the Workman Compensation Act instead of the aforesaid extra-ordinary pension, he does not wish to press his prayer with regard to

the grant of extra-ordinary family pension, since the compensation under the Workman Compensation Act has been paid to her. He further submitted that so far as the first prayer pertaining to E*x-Gratia* lump-sum compensation is concerned, the same has already been paid to the petitioner on 02.05.2019 during the pendency of the present petition, and therefore, now the scope of the present petition is limited only to the extent of grant of interest for the delayed payment on the aforesaid two components.

3. While giving the brief history of the present case, the learned counsel for the petitioner has submitted that the petitioner is a widow of one EXGS-190948L OEM Late Kuldeep, who was employed in the GREF and he unfortunately died on 17.04.2013 on duty at his unit in Jammu & Kashmir. The petitioner was on active duty in a high altitude field area of Jammu & Kashmir and the death was attributable to the service in the GREF and had died due to hostile conditions and extreme weather conditions in the field area. At the time of the death of the husband of the petitioner, the petitioner was pregnant which has been so stated in the Para No.10 of the petition. Although some benefits pertaining to Gratuity and Emergency Relief were released to the petitioner, but so far as the aforesaid two benefits pertaining to *Ex-Gratia* grant and compensation under the Workman Compensation Act was not paid to the petitioner. Learned counsel further submitted that now during the pendency of the present petition, the *Ex-Gratia* has been paid to the petitioner on 05.05.2019 and an amount of Rs.8,67,640/- towards Workman Compensation Act, 1923 was paid to the petitioner in the month of April, 2015. He also submitted that the petitioner was entitled for aforesaid two benefits immediately on the death of the

husband of the petitioner but there has been a delay on the part of the respondents for which now she is entitled for grant of interest since there was no justifiable reason in this regard.

4. On the other hand, Mr. Vipul Aggarwal, Senior Panel Counsel for the respondents-UOI, submitted that so far as the component of *Ex-Gratia* is concerned, the provision for grant of *Ex-Gratia* lump-sum is governed by Notification issued by the Government of India dated 11.09.1998 (Annexure P-1), which was revised from time to time. However, the aforesaid Notification was not applicable to the employees of GREF where the husband of the petitioner was employed and, therefore, *Ex-Gratia* lump-sum compensation could not have been paid to the petitioner. While referring to the reply which was filed by Union of India, learned counsel submitted that thereafter vide Annexure R-1 dated 16.02.2015, the benefit of the aforesaid Notification dated 11.09.1998 was made applicable to the employees of the GREF as well and thereafter, in view of the aforesaid Notification, the petitioner has been granted the benefit of *Ex-Gratia* lump-sum because prior to the aforesaid Notification dated 16.02.2015, said *Ex-Gratia* compensation could not have been paid to the legal heirs of the employees of GREF. Therefore, there was no delay with regard to the same. He further submitted that rather in the year 2017, a clarification was also sought with regard to the aforesaid Notification and it was clarified by the Head Quarters that it has been clearly mentioned in the Notification of 16.02.2015 that *Ex-Gratia* compensation is applicable to GREF also.

5. Mr. Vipul Aggarwal, learned Senior Panel Counsel for the respondents-UOI, while referring to the affidavit filed by Union of India,

also submitted that so far as the benefit pertaining to the Workman Compensation Act, 1923 is concerned, the same was paid to the petitioner in April 2015 and in fact since the benefit of *Ex-Gratia* compensation was not granted pertaining to the LRs of the employees of GREF, the aforesaid Workman Compensation Act benefit was also not granted and it was only after the year 2015 when Notification pertaining to *Ex-Gratia* was made that the benefit was granted to the petitioner in the year 2015.

6. I have heard the learned counsel for the parties.

7. The only scope of the present petition now left is pertaining to the prayer of the petitioner for grant of interest for delayed payment pertaining to *Ex-Gratia* compensation and payment made under the Workman Compensation Act, 1923. The husband of the petitioner had died on 17.04.2013 while he was on duty in Jammu & Kashmir. All the benefits were paid to the petitioner except for the aforesaid two benefits i.e. *Ex-Gratia* compensation and compensation under the Workman Compensation Act. A perusal of Annexure R-1 dated 16.02.2015 would show that the benefit of *Ex-Gratia* lump-sum compensation flowing from Notification of Government of India dated 11.09.1998 (Annexure P-1) was made applicable to the employees of GREF also. Therefore, once the aforesaid Notification Annexure R-1 dated 16.02.2015 was issued by the Government of India itself then at least the petitioner ought to have been given the *Ex-Gratia* lump-sum compensation immediately after the issuance of the Notification but the same was given to the petitioner on 02.05.2019 which was with the lapse of about four years. No justification has come-forth either from the reply or from the arguments raised by learned counsel for the respondents-

UOI for delay in the aforesaid payments. The only argument raised by learned counsel for the respondents in this regard was that a clarification was sought with regard to the aforesaid Notification and in which it was clarified by the Higher Authorities that the Notification dated 16.02.2015 is very clear that it is applicable to the employees of GREF. The argument raised by counsel for the Union of India is not sustainable, in view of the fact that just seeking a clarification from the Higher Authorities would not mean that the Rights which were vested with the petitioner by virtue of Notification dated 16.02.2015 (Annexure R-1) can be postponed and even otherwise also inter-departmental communication pertaining to seeking further clarification without any amendment cannot absolve the respondents for paying the interest on the delayed payments. Therefore, it is clear that the petitioner is entitled for the grant of interest on the aforesaid payment from the date of issuance of Notification dated 16.02.2015 till the date of its actual disbursement in the year 2019.

8. So far as the grant of compensation under the Workman Compensation Act is concerned, as per the reply filed by the Union of India itself, the same was paid to the petitioner in April, 2015 after about two years after the death of the husband of the petitioner. No justification has come-forth either in the reply or in the arguments raised by learned counsel for the respondents-UOI as to what was the reason for delay. Once the respondents themselves have paid the compensation under the Workman Compensation Act and there is nothing on the record to show as to what was the reason for delay, the petitioner will be entitled for interest on that component as well. The only argument raised by learned counsel for the

respondents-Union of India is that since the petitioner was not entitled for the grant of *Ex-Gratia* and it came into being only in the year 2015 vide Annexure R-1, the compensation to be awarded under the Workman Compensation Act was also postponed, is not sustainable since the aforesaid two components are independent to each other and there is nothing on the record to show that the benefit which accrued to the petitioner at the time of the death of the husband of the petitioner was to be postponed.

9. In view of the aforesaid facts and circumstances, the present petition is partly allowed and the petitioner shall be entitled for interest @ 6% per annum on both the aforesaid components i.e. *Ex-Gratia* lump-sum compensation w.e.f. 16.02.2015 and the compensation under the Workman Compensation Act from the date of death of the husband of the petitioner till the date of actual disbursement. The respondents are directed to calculate the aforesaid interest @ 6% per annum (simple) and pay to the petitioner within a period of three months from today. In case, the aforesaid amount is not paid to the petitioner within the aforesaid period of three months from today, then the petitioner shall be entitled for future interest @ 9% per annum instead of 6% per annum.

25.04.2023 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No