IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-539-2023
Date of decision : 05.08.2024

Inder Kaur ......Petitioner

V/S

Punjab State Power Corporation Limited and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Nikhil Anand, Advocate for the petitioner.

Ms. Gurneet Sagoo, Advocate for the respondents.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the orders dated 27.07.2022 (Annexure P-15) and 20.03.2019 (Annexure P-11), whereby the claim of the petitioner for grant of interest on the delayed payment of pensionary benefits of her deceased husband has been rejected. Further seeking a writ of mandamus, directing the respondents to release interest @ 12% per annum on delayed payment of pensionary benefits of her deceased husband from the date the same have become due till the actual date of payment.

2. Brief facts of the case, as have been pleaded in the present petition, are that the husband of the petitioner joined Punjab State Electricity Board (now Punjab State Power Corporation Ltd.) in the year 1980. During the service, an FIR No.54 dated 03.03.2005 under Sections 307, 452 and 34 of the Indian Penal Code read with Section 27

of the Arms Act was registered against the husband of the petitioner at Police Station Sadar, Ferozepur in which he was convicted by the Trial Court vide judgment dated 12.01.2007. After his conviction, his services were terminated vide order dated 20.09.2007. Against the judgment of conviction, the husband of the petitioner had approached this Court by filing an appeal bearing No.CRA-S-245-SB-2007 which was allowed vide judgment dated 30.01.2014 and husband of the petitioner was acquitted in the above-said case. As a result of his acquittal, he was reinstated in service vide order dated 12.08.2014 passed by the respondent-Corporation and he joined back the services on 12.08.2014. However, he unfortunately died on 12.11.2014. After his death, when his pensionary benefits (family pension, gratuity etc.) were not released on time, the petitioner made a representation dated 03.03.2015 to the respondent-Corporation but no action was taken on the same. After a lapse of about 04 years, the respondent-Corporation has released the pensionary benefits of the husband of the petitioner without any interest. Thereafter, the petitioner made a representation dated 11.07.2018 to the respondent-Corporation for grant of interest on the delayed payment of pensionary benefits of her husband but again no action was taken on the same. To claim interest on the delayed payment of pensionary benefits of her husband, the petitioner approached this Court by filing *CWP No.32106 of 2018 titled as 'Inder Kaur Vs. Punjab State Power Corporation Limited and others'* which was disposed of vide order dated 15.12.2018 with a direction to the respondents to consider and decide the representation dated 11.07.2018 made by the petitioner within a period of 02 months from the date of receipt of certified copy of the order. Pursuant to the order dated 15.12.2018 passed by this Court, the respondent-Corporation passed an impugned order dated 20.03.2019, rejecting the claim of the petitioner on the ground that the time has been taken in regularization of absence period of husband of the petitioner and, therefore, there is no unnecessary delay in releasing the pensionary benefits of the husband of the petitioner. Thereafter, the petitioner filed another writ petition before this Court bearing *CWP No.15591 of 2019 titled as 'Inder Kaur Vs. Punjab State Power Corporation Limited and others'* challenging the order dated 20.03.2019 passed by the respondent-Corporation. The said writ petition was dismissed as withdrawn by this Court vide order dated 31.05.2019 with liberty to the petitioner to approach the higher authorities for grant of interest on the delayed payment of pensionary benefits. Pursuant to order dated 31.05.2019, passed by this Court, the petitioner submitted a representation dated 18.07.2019 to the respondent-Corporation. However, when no action was taken on the same, the petitioner again approached this Court by filing *CWP No.21556 of 2021 tilted as 'Inder Kaur Vs. Punjab State Power Corporation Limited and others'*. The said writ petition was disposed of vide order dated 16.05.2022 with a direction to the respondents to consider and decide the representation dated 18.07.2019 made by the petitioner, within a period of 08 weeks from the date of receipt of certified copy of the order. Pursuant to order dated 16.05.2022, passed by this Court, the respondent-Corporation passed order dated 27.07.2022, whereby the claim of the petitioner for grant of interest on the delayed payment of pensionary benefits has again been rejected on the same grounds as taken in order dated 20.03.2019. Hence, this petition.

3. Learned counsel for the petitioner submits that the husband of the petitioner had expired on 12.11.2014 and the pensionary benefits have been released to the petitioner after a lapse of about 04 years i.e. gratuity to the tune of Rs.6,19,082/- on 01.06.2018 and arrears of family pension to the tune of Rs.6,67,492/- on 03.06.2018. He further submits that the respondents had unnecessarily withheld the pensionary benefits of the husband of the petitioner for about 04 years. Since there is a considerable delay in releasing the pensionary benefits to the petitioner, therefore, the petitioner is entitled for interest on the same.

4. Per contra, learned counsel for the respondents, while referring to the contents of the written statement filed on behalf of respondents, submits that the delay occurred in releasing the pensionary benefits to the petitioner is entirely procedural and not intentional as the time was consumed in regularization of absence period of the husband of the petitioner and after doing the same, immediately the pensionary benefits have been released to the petitioner.

5. I have heard learned counsel for the parties and have gone through the relevant documents.

6. Admittedly, the husband of the petitioner had died on 12.11.2014 and since at the time of his death, no departmental/criminal proceedings were pending against him, therefore, the pensionary benefits of the petitioner were required to be released within a

reasonable time. However, the same have been released after a lapse of about 04 years. Since there is a considerable delay in releasing the payment of pensionary benefits to the petitioner, therefore, the petitioner cannot be denied the benefit of interest on the same.

7. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of 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 retiree 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 from 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."*

8. 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 the said judgment 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."

9. In view of the above factual position and settled principles of law the present petition is allowed and the impugned orders dated 27.07.2022 (Annexure P-15) and 20.03.2019 (Annexure P-11) are hereby set aside. The respondents are directed to pay interest @ 6% per annum to the petitioner, on the delayed payment of pensionary benefits, w.e.f. 13.02.2015 (i.e. after three months from the date of death of the husband of the petitioner) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order. The petitioner shall also be entitled to cost of Rs.25,000/- as she has been compelled to approach four times for claiming the pensionary benefits and then interest.

05.08.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No