

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CWP-1662-2020

Date of Decision :08.04.2024

Suman

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate, Mr. BPS Thakur, Advocate
Mr. Rajbir Singh, Advocate and Mr. Akshat Kalia, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

Mr. I.S. Sidhu, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that her husband was working with the respondent-department and had retired from service on attaining the age of superannuation on 31.03.2016 and, thereafter, he unfortunately died on 23.10.2016 but all the benefits of revised pay scale w.e.f. 01.01.2006 was not allowed to him.

2. As per the petitioner, after the benefit of leave encashment, gratuity and commuted value of pension was released in favour of the late husband of the petitioner, pay scale of the post held by the late husband of the petitioner was revised w.e.f. 01.01.2006 and he became entitled for revised leave encashment, gratuity and commuted value of pension and out of the said benefits, revised leave encashment as well as gratuity has

already been released but revised commuted value of pension has not been released by the respondents on the ground that husband of the petitioner unfortunately died on 20.10.2016 i.e. prior to the revision of the pay scale.

3. Learned counsel for the petitioner argues that once, the late husband of the petitioner was given benefit of commuted value of pension at the time of retirement and the same had already been sanctioned merely that the husband of the petitioner died thereafter will not take away the right of the legal heirs of the husband i.e. the petitioner to claim benefit of revised commuted value of pension. Reliance is being placed upon Haryana Civil Services (Pension) Rules, 2016.

4. On the other hand, learned counsel for the respondents submits that commuted value of pension, which was found admissible to the late husband of the petitioner at the time of retirement has already been given and as the husband of the petitioner already had died prior to the revision of pay scale, the benefit of revised commuted value of pension cannot be given hence, claim of the petitioner has rightly been rejected by the respondents.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. In the present petition, late husband of the petitioner on attaining the age of superannuation retired from service on 31.03.2016. Thereafter, the benefit of commuted value of pension, leave encashment as well as gratuity were extended but keeping in view the revision of pay scale, which came into being on 01.01.2016, late husband of the petitioner became entitled for the benefit of revised leave encashment, gratuity as well

as commuted value of pension keeping in view the last pay drawn under the revised pay scale, which was revised w.e.f 01.01.2016. Once, the husband of the petitioner had already been allowed benefit of commuted value of pension and the claim is only qua the grant of revised commuted value of pension, the respondents are under an obligation to release the same once the revised leave encashment as well as gratuity has already been released to the family of the late employee. There is no reason as to why the benefit of revised commuted value of pension should not be released in favour of the legal heir of the late husband of the petitioner.

7. Even otherwise, Rule 100 of the Haryana Civil Services (Pension) Rules, 2016 which governs the said aspect is as under:-

“100. The commutation of pension shall become absolute on the date on which-

- (a) the application in Form Pen-2 complete in all respects is received by the Head of Office; or
- (b) the competent medical authority signs the medical report in Part-III of Form Pen-124.

As the case may be.

Exception:- This provisions shall not be applicable in case of death while in service.

- (2) If the pensioner dies on or after the date of which commutation became absolute but before receiving the commutation value, this value shall be paid to the family members as per provisions applicable for payment of death-cum-retirement gratuity.”

8. Bare perusal of the above rule would show that even when pension papers are filled up after the retirement and the same are complete in all respect, even if, employee dies before the grant of actual commutation of pension, the same has to be released in favour of the legal heirs. The said rule will apply even qua the grant of revised commutation of pension.

Once, late husband of the petitioner has been found entitled for the benefit

of commuted value of pension which was already extended to him, the same will also relate to the revised commuted value of pension. Hence, the said Rule-100 of the Haryana Civil Services (Pension) Rules, 2016 squarely covers the case of the petitioner in her favour.

9. Keeping in view the above, present petition is allowed. Respondents are directed to release the revised commuted value of pension to the petitioner w.e.f. 01.01.2016.

10. As the petitioner was entitled for the said benefit even in the year 2016 but the said benefit has not been extended to her hence, the petitioner is also entitled for the grant of benefit of interest on the said commuted value of pension keeping in view the law settled by the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, wherein, it has been held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of ***J.S. Cheema's case (supra)*** 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.”

11. In the present case, revised commuted value of pension for which, the petitioner was entitled for, in the year 2016 has not been released

to her by raising frivolous objections by the respondents hence, the balance commuted value of pension, which will be released to the petitioner under this order will also carry interest @ 6% per annum from the date the same became due, till the actual payment of the same.

12. Let the present order be complied with within a period of 08 weeks from the date receipt of copy of this order.

13. Civil miscellaneous application pending, if any is also disposed of.

April 08, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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