IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-2703-2021
Date of decision: 22.03.2024

Rajinder Kumar ....Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Nitesh Singla, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. T.S. Sidhu, Advocate for respondent No.5.

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 of mandamus directing respondent No.3-Deputy Director, Local Audit Department, Bathinda, to verify and pass or take appropriate action regarding the pension case of the wife of the petitioner, late Sunita Devi d/o Nathu Ram, which has been sent for approval vide letter dated 01.09.2020, by respondent No.5.

2. The brief facts, as have been pleaded in the petition, are that the wife of the petitioner late Sunita Devi d/o Nathu Ram joined respondent No.5-Nagar Council, Maur on 08.04.1997 as Sweeper (Safai Sewak) and she unfortunately died on 29.05.2019, while in service. It is the case of the petitioner that despite repeated requests, the respondent-department did not forward her pension case to the higher authorities for acceptance. Late Sunita Devi, while in service, submitted her consent

and opted the Pension Scheme under the 'Punjab Municipal Corporation Employees Pension and General Provident Fund Rules, 1994'. After her death, the petitioner approached the respondent-department and submitted various representations for finalising the pension case of the wife of the petitioner. On 01.09.2020, the Executive Officer, Nagar Council, Maur, sent the pension case of the wife of the petitioner, after completing all the necessary formalities along with service book to respondent No.3 for verification. Thereafter, the petitioner had received Rs.8,15,000/- and a sum of Rs.9,54,729/- is still pending with the department on account of gratuity, leave encashment, ex-gratia grant and P.P.F. and the said calculation is as under :-

Name	**Double Gatuity due to death during service**	**Leave enacsh ment**	**Ex-gratia Grant**	**PPF**	**Arrears of 43 Months due to pay revision & difference of grade pay**	**Total**	**Received payment**	**Balance amount**
Late Sunita Devi	1000000	303657	100000	125357	250715	1779729	815000	964729

The amount of Rs.8,15,000/- has been paid to the petitioner in installments and the details of the payments received by the petitioner is as under :-

Dated	**Cheque No.**	**Received Amount**
30.05.2019	83310	1,00,000/-
28.08.2019	1292	2,00,000/-
30.10.2019	1194	1,00,000/-
22.11.2019	758706	1,00,000/-
06.12.2019	758709	1,35,000/-

04.03.2020	1968	40,000/-
04.03.2020	1969	40,000/-
10.04.2020	115113	70,000/-
10.04.2020	115114	30,000/-
Total Amount Rs.8,15,000/-		

and therefore, she is entitled for grant of interest on the delayed pensionary benefits.

4. On issuance of notice of motion, separate replies have been filed by respondents No.3 and 5. In the reply filed by respondent No.5, it has been stated as under :-

> *"2. That the wife of the petitioner late Sunita Devi joined service on 08.04.1997 as a Safai Sewak and she died on 29.05.2019 while in service. It is pertinent to mention here that after her death, her son was appointed in service on compassionate grounds.*
>
> *3. That the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 were formulated which were made effective w.e.f. 1.4.1990 and as per the said rules a pension fund has to be maintained in which the share of the employer was to be deposited. whereas the share of the employee would become his General Provident Fund. Meaning thereby that out of the CPF the share of the employer was to be deposited in the pension fund and accordingly the pension was made to the employees at the time of retirement. The share of the employee in the CPF would become his GPF and the same was to be paid after his/her retirement.*
>
> *The employee who did not opt for these rules, in their case the employer deposited two times their share in*

the CPF. In the present case, the Municipal Council has been depositing double the share in the contributory provident fund, as the case of the deceased was in the non-pension category case.

However, taking a lenient view if the petitioner is ready to refund the excess amount deposited by the Council in the CPF, the council is ready to pay the pension to the petitioner as per Rules. Copy of the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 is attached herewith as Annexure R-5/1.

4 That an amount of Rs.9,90,000/- has been paid to the petitioner, the details of which are as follows :-

Sr. No.	**Cheque No. & Date**	**Amount**
1.	Cheque No.083310 dated 30.05.2019	Rs.1,00,000/-
2.	Cheque No.001292 dated 22.08.2019	Rs.2,00,000/-
3.	Cheque No.001194 dated 30.10.2019	Rs.1,00,000/-
4.	Cheque No.758706 dated 22.11.2019	Rs.1,00,000/-
5.	Cheque No.758709 dated 06.12.2019	Rs.1,35,000/-
6.	Cheque No.001968 dated 04.03.2020	Rs.40,000/-
7.	Cheque No.001969 dated 09.03.2020	Rs.40,000/-
8.	Cheque No.175113 dated 10.04.2020	Rs.70,000/-
9.	Cheque No.115114 dated 10.04.2020	Rs.30,000/-
10.	Cheque No.426564 dated 24.09.2021	Rs.50,000/-
11.	Cheque No.426565 dated 24.09.2021	Rs.25,000/-
12.	Cheque No.006776 dated 16.12.2021	Rs.50,000/-
13.	Cheque No.007976 dated 21.04.2022	Rs.50,000/-
	Total	**Rs.9,90,000/-**

5. That the entire gratuity has been paid to the petitioner as per Payment of Gratuity Act, 1972 which is *followed by the Municipal Council and now nothing is due to the petitioner and therefore the present writ petition is liable to be dismissed."*

5. The stand taken by the respondent-Municipal Council is that the petitioner has been paid a sum of Rs.9,90,000/- and if the petitioner is ready to refund the excess amount deposited by the Municipal Council in C.P.F., the Council is ready to pay the pension to the petitioner as per rules.

6. Learned counsel for the petitioner submits that the petitioner shall deposit the excess/due amount, within a period of two months, from the date the necessary calculation is forwarded to the petitioner.

7. Let respondent No.5-Municipal Council shall inform about the due amount to be deposited by the petitioner, within a period of one month from today and the same shall be deposited by the petitioner, within a period of two months thereafter and the necessary benefits shall be released by respondent No.5-Municipal Council within one month thereafter.

8. Disposed of in the above terms.

(NAMIT KUMAR)
JUDGE

22.03.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No