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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-18418-1997
Date of Decision: 22.04.2023

Smt. Rama Rani ..... Petitioner

Versus

Haryana State Electricity Board and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gurnoor Singh Sethi, Legal Aid Counsel,
for the petitioner.

Mr. Hitesh Pandit, Advocate with
Mr. Divyansh Shukla, Advocate,
for the respondents.

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<u>JASGURPREET SINGH PURI, J.</u> (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to grant all the retiral benefits to the petitioner along with interest.

2. The present writ petition was admitted on 22.09.1999 and now it has come up for final hearing.

3. The brief facts of the present case are that the husband of the petitioner, namely, Sh. Jitender Singh was working in the respondent-Board since 1975 and while he was in service he unfortunately died on 17.06.1993 while serving on the post of Assistant Engineer in the Transformer Workshop Division HSEB, Faridabad. At the time when he was posted at the aforesaid office, there were some reported thefts in the Store and various facts finding enquiries were conducted by the Department but there was no

charge-sheet nor any disciplinary proceedings against the husband of the petitioner. After the death of the husband of the petitioner, the petitioner, who is his widow made a request to the respondent-Board for number of times for release of the pension and retiral benefits. The first representation was made to the Chairman of the Board vide Annexure P-1 on 21.11.1994, but no action was taken in this regard. Thereafter, vide Annexure P-2, another representation was made by the petitioner to the Governor, State of Haryana by stating that she is in trouble and has spent lot of money on fare and travelling and she does not have any source of income and her children are minor and therefore, the due amount in respect of her husband may be released to her. Thereafter, some correspondence had taken place between the Pension Department and Administrative Department vide Annexure P-3 wherein the process for the same had started. Vide Annexure P-4, dated 07.12.1995, the Secretary of the respondent-Board wrote to the petitioner that the consolidated 'No Demand Certificate' will only be issued as and when the pending cases against her late husband are decided. However, there is nothing on the record to show that as to what cases were pending against the husband of the petitioner except for some preliminary enquiries which are indicated in the written statement. Thereafter, vide Annexure P-5, dated 15.04.1996, a consolidated 'No Demand Certificate' in favour of the husband of the petitioner was issued in which it has been so stated that there is nothing outstanding against the husband of the petitioner except on two heads. Firstly, Rs.1,05,615.30/- on account of shortage of Board's material in PTPS Store and secondly, Rs.300/- on account of running charges of vehicle No.HY0-8716, totaling of Rs.1,05,915.30/-. In this way, when No Demand Certificate was issued in respect of the husband of the petitioner the only amount which was shown to be outstanding was of the aforesaid amount of Rs.1,05,915.30/- primarily on account of shortage of the material of the Board in the PTPS Store. This 'No Demand Certificate' was issued vide Annexure P-5 on 15.04.1996 after about three years. Thereafter, the petitioner was granted the 100% provisional pension and was also paid GPF etc. but some amount was deducted from the Gratuity and Leave Encashment of the petitioner and some amount was shown to be remaining. As per the reply filed by the respondent-Board, an amount of Rs.52,222/- was recovered from the Gratuity and Leave Encashment and remaining amount was shown to be recoverable i.e. Rs.53,993/-. However, the remaining pension and pensionary benefits were paid to the petitioner regarding which no date has come-forth as to on what date, the aforesaid remaining benefits were paid to the petitioner. However, as per Annexure P-7, dated 23.10.1996, a letter was written by the Deputy Superintendent Pension that the DCRG has been adjusted against the pending dues. The petitioner thereafter served a legal notice to the respondent-Board vide Annexure P-8 dated 17.03.1997, but no action was taken regarding the same. The grievance of the petitioner is that she especially being a widow and at the time of death of her husband was having minor children, has been deprived of her rights which are not only Statutory Rights but also Constitutional Rights without any authority of law.

4. Mr. Gurnoor Singh Sethi, learned Legal Aid Counsel appearing on behalf of the petitioner submitted that it is a case where there have been a deprivation of Statutory and Constitutional Rights of the petitioner without any authority of law. He further submitted that the petitioner is a widow and her husband died in the year 1993 which is more than 30 years ago and at

the time of the death of her husband, she had minor children to feed and at that point of time, she did not even have money to feed her children to make her both ends meet since she did not have any source of income at that point of time. While referring to Annexure P-2, learned Counsel submitted that the petitioner had not only approached the respondent-Board but had also given a representation to the Governor of the State of Haryana and even orally requested to the respondent-Board for a number of times that she has no source of income and the same is so reflected in Annexure P-2 wherein she specifically stated that she has no source of income and her children are minor and the amount due against her husband be paid to her, but nobody listened to her. He further submitted that even when the pension was paid to her, the same was although 100% pension but it was a provisional pension as per the reply filed by the respondent-Board but the same was released after more than three years of the death of her husband and similarly some GPF etc. was also released after a long delay and the reason for the delay was that the respondents-Board were not able to arrive at any decision as to how some amounts were to be recovered from the husband of the petitioner and it was not the fault of the petitioner that the delay has been occurred but it was because of the fault of the respondent-Board to have not arrived at any decision at all and the same has also not been arrived at till date and therefore, the petitioner is also entitled for grant of interest on the payment of pension and GPF and other benefits which have been paid to her with an unexplained delay.

5. Learned Counsel further submitted that so far as the recovery of an amount of Rs.52,222/- from the Gratuity and Leave Encashment of the husband of the petitioner is concerned, the same was without any

justification and without any authority of law. He submitted that even a perusal of the reply which has been filed by the respondent-Board would show that in Para No.1 of the Preliminary Objections, a reference has been made to four thefts which had taken place when the husband of the petitioner was in service and stated to be Incharge of the Store but while the husband of the petitioner was in service neither any charge-sheet was issued to him nor any departmental enquiry was held nor any punishment order or any such kind of order was passed. He also submitted that even after the death of the husband of the petitioner no order has been passed by the competent authority for withholding or for recovering of the retiral benefits from the Gratuity and Leave Encashment of the petitioner. It was only by way of letter of the Pensions Department/Accounts Department that a recovery of the aforesaid amount has been made. He further submitted that vide Annexure P-7, it has been so stated by the Deputy Superintendent/Pension for Additional Secretary, HSEB, Panchkula that whole DCRG has been adjusted against the pending dues but there is no conscious decision taken by the competent authority as to why and under what circumstances and under which provision of law the amount was recovered from the Gratuity and Leave Encashment nor any such order has been placed on record by the respondent in the present case. He submitted that the aforesaid adjustment could not be made without passing any reasoned order in this regard. He further submitted that a direction may be issued to the respondents to refund the aforesaid amount of Rs.52,222/- along with interest to the petitioner and the recoverable amount shown by respondents to be Rs.53,993/- cannot be recovered from the petitioner.

6. On the other hand, Mr. Hitesh Pandit, learned counsel for the

respondents-Board with Mr. Divyanshu Shukla, Advocate submitted that although there is no order on record by which any charge-sheet or any enquiry or any disciplinary proceedings etc. were initiated against the husband of the petitioner but since there was loss caused to the Board, the same was required to be adjusted from the retiral benefits of the husband of the petitioner. He further submitted that the reason as to why there was a delay in disbursement of the remaining retiral benefits was that the aforesaid amount was not adjusted and unless the adjustment was made, 'No Demand Certificate' could not have been issued and therefore, it caused delay in starting the pension and also releasing the retiral benefits.

7. I have heard the learned counsels for the parties.

8. It is a case of a widow whose husband died in the year 1993 while he was in service and she had minor children at that point of time and she had been requesting to release the pensionary and retiral benefits because she had no source of income. However, no action was taken by the respondents in this regard and ultimately, in the year 1996 as per Annexure P-7, the entire DCRG was adjusted to the outstanding amount which was shown to be against the husband of the petitioner and thereafter, 100% pension in the nature of provisional pension was released to her along with GPF etc. but the respondents recovered an amount of Rs.52,222/- from the Gratuity and Leave Encashment of the husband of the petitioner and remaining amount of Rs.53,993/- was shown to be recoverable from the husband of the petitioner.

9. The facts and circumstances of the present case would show that at the time when the husband of the petitioner was in service neither any charge-sheet nor any disciplinary proceeding was initiated against the

petitioner nor any order of punishment has been passed against him. A perusal of the written statement filed by the respondent-Board would show that a reference has been made to four instances wherein thefts had taken place where the husband of the petitioner was working. Para No.2 of the preliminary objections would show that it has been so stated by the respondent-Board that the Board had suffered losses to the tune of Rs.2,34,701.50/- and in order to make good the loss, the Board took a decision that the petitioner's husband is liable for the said loss because of his negligence and dereliction of his duties. Further in Para No.3 of the preliminary objections, it has been so stated that in view of the facts and circumstances, the Board took a decision that the petitioner's husband is liable to share the liability to the extent of 45% of the total loss which comes to Rs.1,05,615/-. It is further stated in the aforesaid para that when the case for recovery of this amount from the petitioner's husband was in process, the husband of the petitioner expired on 17.06.1993. All the preliminary objections are reproduced as under:-

> *"**PRELIMINERY OBJECTIONS**:-*
> *1. That the petitioner has not brought true facts on record and perhaps concealed the material facts from this Hon'ble Court. The factual position of the case is like this that the theft took place in the stores of Thermal Power House Panipat. Where the deceased Sh.Jitender Singh husband of the petitioner was posted as Assistant Engineer at Panipat Thermal Power Plant as incharge of the stores. During his tenure the following thefts took place.*
>
> > *i). On 6.3.1991 impellers -4 in numbers -worth Rs. 35,500/- were stolen from the stores, consequent upon which an F.I.R. No.152 was Registered and a criminal*

case is pending in the criminal court, which has not yet been decided.

ii) On 22.1.1991 Actuator Motor, worth Rs. 26,691.50 was stolen from the store and the matter was enquired into by the Deptt. and the persons who were held responsible were-

a) Sh. Jarnail Singh, Head Store Keeper

b) Sh. Dalel Singh, Store Keeper, and

c) Sh. Jatinder Singh, Asstt. Engineer

the deceased husband of Petitioner for their negligence of their duties.

iii) On 28.3.1992 Impellers two in number and other store material were stolen, and an FIR No. 233 was got registered on 27.4.92. The respondents enquired into the matter, as a result of which the petitioner's husband was held responsible for the dereliction and negligence of his duties. The petitioner's husband, being incharge of the stores should have kept strict vigil and tight security because the goods worth lacs of rupees were lying in the Stores. A list of articles stolen on 28.3.1992 is annexed with this writ petition as Annexure P/1.

iv) That on 20.5.1991 L.T.Motors 3 in Nos. worth Rs.10,310/- were found stolen which was reported to the Police on 21.5.1991 and the matter was enquired into by the Deptt. and the petitioner's husband was held responsible for negligence of his duties being the over-all incharge of the Stores.

2. That during the tenure of the Petitioner's husband at Panipat Thermal Power Plant, four thefts took place after a brief intervals and after enquiring into the matter in de-tai, the respondent Board came to the conclusion that since the Board has suffered a loss to the tune of Rs.2,34,701/50 in order to make good the loss, the Board took a decision that the petitioner's husband is liable to *make good the said loss because of his negligence and dereliction of his duties.*

3. That after taking into consideration all the facts and circumstances of the case, the Board took a decision that the petitioner's husband is liable to share the liability to the extent of 45% of the total loss which comes to Rs.1,05,615/. When the case for recovery of this amount from the petitioner's husband was in process, the husband of the petitioner expired on 17.6.1993. After the death of the petitioner's husband, the retiral benefits which became due and payable on the death of the petitioner's husband, but paid, whatever were payable to the petitioner but subject to the condition that a sum of is.1,05,615/- was to be recovered from the retiral benefits of which the amount could not be recovered. Therefore, the Board paid to the petitioner ex-gratia grant of Rs.25,000/- G.P. Fund and provisional pension @ 100%.

4. That the Respondent Board was left with no alternative except to recover a sum of Rs.1,05,615/- from the gratuity and leave encashment of the petitioner's husband as shown in Annexure P-5.

5. That after adjusting the amount of Rs.52,222/- from the gratuity and leave encashment etc. the Respondent Board is still to recover from the petitioner's husband a sum of Rs.53,993/-

6. That the averments of the petitioner that she has not been paid the retiral benefits, which became payable after the death of her husband, being an employee of the respondent Board is totally wrong. Rather, the respondent Board paid to the petitioner all the due amount of Ex-Gratia Grant, G.P.Fund, the provisional Pension @100% expeditiously. The adjustment of leave encashment and Gratuity had to be made because the petitioner's husband was responsible alongwith other employees, being the incharge of the Stores of Panipat

Thermal Power Plant of the loss caused to the Respondent Board. Therefore, the action of the respondent Board in adjusting the leave encashment and Gratuity towards the amount recoverable from the petitioner's husband is legal and justified.

10. A perusal of the aforesaid contents of the reply filed by the respondent-Board would show that on the one hand it has been so stated by the respondent that the Board took a decision that the petitioner's husband is liable to make good the loss and therefore, a liability of Rs.1,05,615/- was cast upon him and in the same breath it has been so stated that when the case of the petitioner's husband for recovering the aforesaid amount was in process, the husband of the petitioner expired. However, there is nothing on record to show that as to when the aforesaid decision was taken by the Board. No order of any Board has been attached with the reply nor has been supplied by the respondents to this Court. It appears that only bald and evasive averments have been made in the reply by referring to some decision of the Board regarding which not even any date has been mentioned. Such kind of evasive and bald averments in the reply cannot be looked into unless they are quoted and substantiated by any document and had there been any document or any final order passed by the Board, the same ought to have been placed on record by the respondents. Even during the course of arguments, a specific query was raised to the learned counsel for the respondents as to whether any final decision by a competent authority was placed on record or was available or not to which he could not give any justification and stated that no such order has been placed on record. Therefore, it has to be presumed that there is no final decision of any Board to fix any liability towards the husband of the petitioner.

11. Article 300-A of the Constitution of India provides that no person can be deprived of his Right to Property save by the authority of law. It is a settled law that pension and pensionary benefits are not a bounty of the State and it is a part of Right to Property. Therefore, right to receive pension, pensionary benefits and retiral benefits is not only right which is conferred by the Statutory Rules but is also a Constitutional Right. A Constitutional Bench of Hon'ble Supreme Court way back in the year 1971 in "***Deokinandan Prasad Vs. State of Bihar***", ***1971(2) SCC 330***, observed that pension is not a bounty of the State and it is a valuable right. At that point of time, Right to Property was a Fundamental Right under Article 31(1) of the Constitution of India which was covered under Part III of the Constitution of India. Thereafter, by virtue of 44th Amendment of the Constitution of India, Right to Property became a Constitutional Right under Article 300-A of the Constitution of India instead of a Fundamental Right. It is also well settled law that when the State or instrumentalities of the State is to give pension and family pension to its employees, then they are not doing any charity towards anybody and it is rather obligatory upon the State to be extremely sensitive to the issue of disbursement of the retiral benefits within time. The relevant portion of the aforesaid judgment is reproduced as under:-

> "32. *The matter again came up before a Full Bench of the Punjab and Haryana High Court in* ***K.R. Erry v. The State of Punjab, ILR (1967)1 Punj and Har 278 (FB)****. The High Court had to consider the nature of the right of an officer to get pension. The majority quoted with approval the principles laid down in the two earlier decisions of the same High Court, referred to above, and held that the pension is not to be treated as a bounty payable on the sweet-will and*

pleasure of the Government and the right to superannuation pension including its amount is a valuable right vesting in a Government servant. It was further held by the majority that even though an opportunity had already been afforded to the officer on an earlier occasion for showing cause against the imposition of penalty for lapse or misconduct on his part and he has been found guilty, nevertheless, when a cut is sought to be imposed in the quantum of pension payable to an officer on the basis of misconduct already proved against him, a further opportunity to show cause in that regard must be given to the officer. This view regarding the giving of further opportunity was expressed by the learned Judges on the basis of the relevant Punjab Civil Service Rules. But the learned Chief Justice in his dissenting judgment was not prepared to agree with the majority that under such circumstances a further opportunity should be given to an officer when a reduction in the amount of pension payable is made by the State. It is not necessary for us in the case on hand, to consider the question whether before taking action by way of reducing or denying the pension on the basis of disciplinary action already taken, a further notice to show cause should be given to an officer. That question does not arise for consideration before us. Nor are we concerned with the further question regarding the procedure, if any, to be adopted by the authorities before reducing or withholding the pension for the first time after the retirement of an officer. Hence we express no opinion regarding the views expressed by the majority and the minority Judges in the above Punjab High Court decision, on this aspect. But we agree with the view of the majority when it has approved its earlier decision that pension is not a bounty payable on the sweet-will *and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a government servant.*

33. This Court in State of ***Madhya Pradesh v. Ranojirao Shinde and another, 1968-3 SCR 489*** *had to consider the question whether a "cash grant" is "property" within the meaning of that expression in Articles 19(1)(f) and 31(1) of the Constitution. This Court held that it was property, observing "it is obvious that a right to sum of money is property".*

12. Thereafter, the aforesaid proposition of law was reiterated by Hon'ble Supreme Court in "***State of Kerala Vs. M. Padmanabhan Nair***", ***AIR 1985 Supreme Court 356*** and it was again observed that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property, in their hands. The aforesaid authoritative law was thereafter reiterated by the Hon'ble Supreme Court in "***Dr. Uma Agrawal Vs. State of U.P. and another***", ***1999(2) SCT 347 (SC)***.

13. Thereafter, in the year 2013, the Hon'ble Supreme Court in another authoritative judgment in "***State of Jharkhand and others Vs. Jitendra Kumar Srivastava and another***", ***2013(12) SCC 210*** again discussed the entire law pertaining to the valuable rights which are pertaining to the grant of pensionary benefits. Para Nos.8 & 16 of the aforesaid judgment are reproduced as under:-

"8. It is an accepted position that gratuity and pension are not the bounties. An employee earns these benefits by dint of his long, continuous, faithful and un-blemished service. Conceptually it is so lucidly described in D.S. Nakara and Ors. Vs. Union of India; (1983) 1 SCC 305 by Justice D.A. Desai, who spoke for the

Bench, in his inimitable style, in the following words:

> *"18. The approach of the respondents raises a vital and none too easy of answer, question as to why pension is paid. And why was it required to be liberalised? Is the employer, which expression will include even the State, bound to pay pension? Is there any obligation on the employer to provide for the erstwhile employee even after the contract of employment has come to an end and the employee has ceased to render service?*
>
> *19. 20.What is a pension? What are the goals of pension? What public interest or purpose, if any, it seeks to serve? If it does seek to serve some public purpose, is it thwarted by such artificial division of retirement pre and post a certain date? We need seek answer to these and incidental questions so as to render just justice between parties to this petition.*
>
> *20. The antiquated notion of pension being a bounty a gratituous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in Deoki Nandan Prasad v. State of Bihar and Ors. [1971] Su. S.C.R. 634 wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon any one's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied maters that it may be*

necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab and Another Vs. Iqbal Singh(6)".

It is thus hard earned benefit which accrues to an employee and is in the nature of "property". This right to property cannot be taken away without the due process of law as per the provisions of Article 300-A of the Constitution of India.

16. The fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognized as a right in "property". Article 300-A of the Constitution of India reads as under:

*"**300-A Persons not to be deprived of property save by authority of law**.- No person shall be deprived of his property save by authority of law."*

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the Constitutional mandate enshrined in Article 300-A of the Constitution. It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced."

14. A Full Bench of this Court in "***Dr. Ishar Singh Vs. State of Punjab and another***" ***1993(3) PLR 499***, also discussed the entire issue with regard to right to withhold the pension and permissibility to withhold the commutation of pension etc. and also discussed in detail wherein it was observed that the entire pension has to be paid and it cannot be withheld without any authority of law. The relevant portion of the aforesaid judgment

is reproduced as under:-

> "*81. As a result of the above discussion, I would conclude as under:-*
>
> *(i) The Government has no right to withhold or postpone pension or the payment on account of commutation of pension. The State is bound to release 100 per cent pension at the time of superannuation, may be provisionally.*
>
> *(ii) The Government can withhold the gratuity or other retiral benefits except pension or postpone payment of the same during pendency of an enquiry.*
>
> *(iii) Pension cannot be adversely affected before a finding of guilt is returned.*
>
> *(iv) The Government can initiate Departmental enquiry after long lapse before retirement, rather there is no limitation for initiating the departmental enquiry from the date of incident before retirement. The delay and the explanation for the same may reasonably be taken note of keeping in view its likelihood to cause prejudice to the delinquent if the enquiry is challenged in appropriate proceedings.*
>
> *(v) The enquiry proceedings cannot be quashed solely on the ground of long pendency.*
>
> *(vi) There is no effect of superannuation on the pendency of the enquiry proceedings.*
>
> *(vii) The recovery of the Government dues can be made from gratuity or other retiral benefits only."*

15. In "***Tukaram Kana Joshi and others through Power of Attorney Holder Vs. M.I.D.C. and others***", ***2013(1) SCC 353***, it was observed by the Hon'ble Supreme Court that a Right to Property is now

considered to be not only a Constitutional or a Statutory Right but also a Human right. Para No.9 of the aforesaid judgment is reproduced as under:-

> "9. *The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi faceted dimension. The right to property is considered very much to be a part of such new dimension. (Vide:* ***Lachhman Dass v. Jagat Ram, (2007) 10 SCC 448; Amarjit Singh v. State of Punjab, (2010)10 SCC 43; (2010)4 SCC (Civ) 29, State of Madhya Pradesh v. Narmada Bachao Andolan, (2011)7 SCC 875: AIR 2011 SC 1989, State of Haryana v. Mukesh Kumar, (2011)10 SCC 404: (2012)3 SCC (Civ) 769: AIR 2012 SC 559 and Delhi Airtech Services (P) Ltd. v. State of U.P., (2011)9 SCC 354: (2011)4 SCC (Civ) 673: AIR 2012 SC 573***)."

16. In the present case, neither in the written statement filed by the respondents nor the arguments raised by the learned counsel for the respondents suggest that by what authority of law, an amount was recovered from the Gratuity and Leave Encashment of the husband of the petitioner. There is no order on record to show as to by what order the aforesaid recovery has been ordered to be effected and what was the reason for the same. Apart from the above, there is no order of any competent authority to show as to how there has been ascertainment of the aforesaid amount of Rs.1,05,915.50/-. An evasive and bald averment pertaining to some decision of the Board without any specific date or any order on record would not

mean that the petitioner ought to have been deprived of her right in this regard.

17. Even otherwise also, when the husband of the petitioner was in service, there was no punishment order against him nor any disciplinary proceeding nor any charge-sheet was issued against him and therefore, after his death, the same could not have been recovered from his widow unless any definite procedure which is prescribed under any rule is followed. Therefore, it is clear that deprivation has been done without any authority of law.

18. In view of the aforesaid facts and circumstances, the present petition is allowed. A direction is hereby issued to the respondent-Board to refund the aforesaid amount of Rs.52,222/- along with interest @ 6% per annum (simple). In case any other recovery has been made from the petitioner then the same shall also be refunded back to the petitioner along with interest as aforesaid.

19. So far as the payment of interest on the delayed payment of payments already made is concerned, no legal justification has come-forth as to why pension and part of retiral benefits have been paid with a delay of more than three years. Therefore, the petitioner will also be entitled for interest @ 6% per annum (simple) from two months after the date of the death of the husband of the petitioner till the actual date of its disbursement within a period of three months from today.

20. So far as grant of family pension to the petitioner is concerned, there is no ground to continue the family pension in the nature of provisional pension. Therefore, the respondents are directed to regularize the family pension of the petitioner.

21. The aforesaid amounts be calculated and paid to the petitioner within a period of three months from today along with interest as stated above. However, in case, the aforesaid amount is not paid to the petitioner within a period of 3 months from today, then the petitioner shall be entitled for future interest @ 9% per annum (simple) instead of 6% per annum (simple).

22. Considering the peculiar facts and circumstances of the present case wherein the husband of the petitioner died about 30 years ago and the petitioner being a widow and having minor children at that point of time and according to her representation, she had no source of income and as per the learned counsel for the petitioner she had no money to feed her children at that point of time when the respondent did not release retiral benefits to her, she deserves exemplary costs in the nature of compensation. The action of the respondent-Board was not only illegal but also insensitive in nature.

23. In view of the above, this Court deems it fit and proper to quantify the costs as Rs.2,00,000/- (Rupees Two Lacs Only) which shall also be paid to the petitioner by the respondent-Board within the aforesaid period of three months from today.

22.04.2024 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

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