2024:PHHC:048608

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-14438-2021
Date of decision : 09.04.2024

Kiranjit Kaur ….Petitioner

V/S

State of Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Thakan, Advocate for the petitioner.

Ms. Arundhati Kulshreshtha, A.A.G., Punjab.

Mr. A.S. Brar, Advocate for respondents No.2 & 3.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of certiorari for setting aside the order dated 22.06.2021 (Annexure P-2) passed by respondent No.3, whereby the claim of the petitioner for grant of interest @ 24% per annum on the delayed payment of Gratuity, leave encashment, GPF Fund and other benefits of her husband, has been rejected.

2. Brief facts of the case, as have been pleaded in the present petition, are that the husband of the petitioner late Sh. Sushil Kumar was appointed as Peon on 21.06.2001 in the respondent-Corporation. However, during the service, he had unfortunately died on 14.12.2013. After his death, the petitioner requested to the respondent-Corporation for compassionate appointment, which was not considered at that time

and in the year 2020, the petitioner has been appointed as Peon. However, other service benefits including gratuity, leave encashment, GPF Fund, arrears of pension etc. were not released by the respondents. For releasing the abovesaid benefits, the petitioner served legal notice dated 20.12.2020 upon the respondents, but to no avail. Thereafter, the petitioner approached this Court by filing CWP No.5022 of 2021 titled as 'Kiranjit Kaur and others Vs. State of Punjab and others' which was disposed of by this Court vide order dated 03.03.2021 with a direction to the competent authority to decide legal notice dated 20.12.2020, in accordance with law, by passing a speaking order, within a period of two months from the date of receipt of certified copy of the order and benefits, if any, be released to the petitioner within four weeks thereafter. Pursuant to the order passed by this Court, order dated 22.06.2021 has been passed by respondent No.3, whereby the petitioner has been held entitled for gratuity, GPF, leave encashment and other benefits, however, her claim for grant of interest on the delayed payment of abovesaid benefits has been rejected. Hence this petition.

3. On issuance of notice of motion reply on behalf of respondent No.3 has been filed. In the said reply, it has been stated as under :-

> *"xx xx xx xx xx*
>
> *2. That it would be relevant to mention here that the husband of the petitioner expired on 14.12.2013, the petitioner informed about the death on 16.12.2013 at Sub Division office Sandaur, However, a chargesheet no.3217 was pending against the deceased employee which was*

decided vide order dated 24.01.2014. Vide letter no.3409 dated 21.03.2014, the petitioner was asked to submit an application for compassionate appointment, the AE Sandaur sent pension papers, GPF form etc. vide letter no. 714 dated 26.03.2014 to the petitioner, however, the family members of the deceased employee sent a legal notice dated 25.04.2014, staking claim for release of pensionery benefits and compassionate appointment to them instead of releasing the same to the petitioner.

3. That thereafter, a civil suit was also filed vide Civil suit no.408 of 2014 before the additional Civil Judge (Senior Division) Jagraon on 11.07.2014, which was finally decided vide judgment and decree dated 11.07.2019. The copy of the judgment and decree dated 11.07.2019 was received in the office of respondent vide diary no. 2532 dated 25.07.2019. It is only on account of pendency of abovesaid civil suit between the family members of the deceased employee including the petitioner, the abovesaid pecuniary benefits could not be released, thus the abovesaid delay in pendency of the case is not attributable to the answering respondent. After waiting for the statutory limitation period of appeal, the case of the petitioner for release of pensioner benefits on account of the death of the petitioner's husband along with his service book was sent to the accounts office on 03.09.2019 and the documents regarding the compassionate appointment of the petitioner was received on 17.10.2019. After completion of the necessary formalities, finally the GPF was released and other pensionery benefits were released to the petitioner. Thus, there was no delay at the end of the answering respondents in forwarding the case of the petitioner. If there is any delay, that is either on the part of the petitioner or her *family members, therefore, the answering respondent cannot be fastened with any liability of paying interest on delayed payment.*

xx xx xx xx xx"

4. Learned counsel for the petitioner submits that although all the retiral benefits, on account of the death of the petitioner's husband, have been released to the petitioner during the pendency of the present petition, however, the same have been released after a considerable delay. Since the retiral benefits have been withheld without any justifiable reasons, therefore, the petitioner is entitled for interest on the delayed payment of retiral benefits in view of the law laid down by a Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** and ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***. The details of payment of retiral benefits is as under :-

Sr. No.	**Details of payment**	**Amount (Rs.)**	**Due date**	**Paid on**
1.	Pension Arrears	12,90,383/-	14.12.2013	22.06.2021
2.	Gratuity	2,25,264/-	14.12.2013	22.06.2021
3.	Leave Encashment	19,562/-	14.12.2013	22.06.2021
4.	GPF/DLIS	2,55,526/+10,000/-	14.12.2013	22.06.2021
5.	Ex-gratia	1,00,000/-	14.12.2013	22.06.2021

5. On the other hand, learned counsel for respondents No.2 and 3, while referring to the averments made in the reply, submits that all the retiral benefits, on account of death of the petitioner's husband, have been released to the petitioner and nothing is pending towards the petitioner. He submits that if there is any delay in releasing the retiral

benefits, that is on the part of the petitioner and her family members as a Civil Suit No.408 of 2014 was filed by the family members of the husband of the petitioner on 11.07.2014 for claiming the service benefits on account of death of husband of the petitioner, which was finally decided vide judgment and decree dated 11.07.2019 and after the decision of the said civil suit, the retiral benefits have been released to the petitioner. Therefore, the respondent-Corporation is not liable to pay any interest on the delayed payment of retiral benefits.

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

7. A perusal of the reply filed on behalf of respondent No.3 would show that the reasons given by the respondent-department for delay in releasing the retiral benefits are that a charge-sheet No.3217 was pending against the husband of the petitioner which was decided vide order dated 24.01.2014 and a civil suit was filed by the family members of the husband of the petitioner against the petitioner for the service benefits on account of the death of the husband of the petitioner, which was decided vide judgment and decree dated 11.07.2019.

8. Since the charge-sheet pending against the husband of the petitioner was ultimately decided on 24.01.2014 and there was no stay in the civil suit filed by the brother and sisters of the husband of the petitioner, regarding releasing of retiral benefits, therefore, the retiral benefits were liable to be released as per rules within a reasonable time. The petitioner had died on 14.12.2013 and the retiral benefits have been released to his wife on 28.06.2021 i.e. after a lapse of more than 07

years and the amount withheld was used by the respondent-Corporation for the said period. Moreover, it is settled law that only wife is entitled for the pensionary benefits/service benefits, on account of the death of the husband. Having not released the retiral dues of the husband of the petitioner in time hence, the petitioner is held entitled for interest @ 6% per annum.

9. 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."*

10. 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."*

11. In view of the above factual position and settled principles of law, the present petition is allowed and the impugned order dated 22.06.2021 to the extent it denies interest on the retiral benefits is set aside with a direction to the respondent-Corporation to pay interest @ 6% per annum on the retiral benefits of her late husband from 14.03.2014 (after expiry of three months from the date of death of the husband of the petitioner) till the actual date of payment i.e. 22.06.2021, within a period of 02 months from the date of receipt of certified copy of this order.

09.04.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

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