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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-14940-2021

Date of Decision: 06.02.2024

Bhupender Sharma

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mohnish Sharma, Advocate
for the petitioner.

Mr. Kapil Bansal, D.A.G., Haryana.

Mr. Satyam Tandon, Advocate,
for respondent Nos.2 to 7.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a writ petition filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction calling for the records of the case and after perusal of the same issue a writ in the nature of *mandamus* directing the respondents to pay interest @ 18% per annum on account of inordinate, intentional delay caused by them for release of retiral benefits of deceased father of the petitioner.

2. Learned counsel for the petitioner submitted that the father of the petitioner, who was working in the respondent-Nigam had unfortunately died on 24.09.2017 and thereafter, the petitioner had requested the respondent-Nigam to release the retiral benefits of the father of the petitioner but no action was taken in this regard. He further submitted that

on the basis of request of the petitioner, the SDO had written to the XEN vide Annexure P-4 dated 31.10.2017 with regard to the benefits which were to be given to the petitioner and apparently a perusal of Annexure P-4 would show that along with the aforesaid forwarding letter even the Legal Heir Certificate was also attached and all the requisite documents which are 21 in number were attached and consequent upon the same vide Annexure P-5, on 31.10.2017, the Ex-gratia payment of Rs.25,000/- was released to the petitioner by the respondent-Nigam itself. However, the respondent-Nigam did not release the retiral benefits pertaining to Gratuity, Leave Encashment etc. and he was asked by the Nigam to file a succession certificate in this regard although the petitioner is a legal heir and there is no provision of law by which he could have been asked to file the succession certificate. He further submitted that be that as it may the respondent-Nigam itself in the year 2019-2020 had released all the retiral benefits to the petitioner. He further submitted that there has been a delay on the part of the respondent-Nigam to have released the benefits for unjustified reasons and they themselves now released the payment to the petitioner after considering that the petitioner was eligible for being paid and even till date, the succession certificate has not been supplied by the petitioner as the application for obtaining the same is still pending before the Court. He further submitted that there is no provision for getting a succession certificate because the Legal Heir Certificate was already given to the respondent-Nigam and on the basis of which Ex-gratia payment was given to the petitioner as he was dependent upon his father.

3. On the other hand, Mr. Satyam Tandon, learned counsel for the

respondents-Nigam submitted that the respondent-Nigam itself has released all the retiral benefits to the petitioner although with the delay because the petitioner had filed a case for getting the succession certificate from the Court of law and since the petitioner has already been paid all the benefits, he is not entitled for grant of interest.

4. I have heard learned counsel for the parties.

5. The only issue involved in the present case is for grant of interest on the delayed payments. The case of the petitioner is that the respondent-Nigam itself has paid the retiral benefits to the petitioner and the delay was caused because he was told to file a case for succession certificate from the Court which is still pending and rather on the basis of the Legal Heir Certificate the respondent-Nigam itself has released the Ex-gratia payment to the petitioner by considering the petitioner to be entitled for the same and there was no justification from the Nigam to have denied the benefit for the same reason after holding that the petitioner was entitled for the same. However, the case of the counsel for the respondent-Nigam is that now the benefit has already been given to the petitioner and there is no occasion for grant of interest to the petitioner. A perusal of Annexure P-4 would show that a letter was written by the SDO to the XEN wherein all the documents pertaining to the pension papers were enclosed including the Legal Heir Certificate. Consequent upon the same vide Annexure P-5 after about one month of the death of the father of the petitioner, the petitioner was granted Ex-gratia amount. Now plea has been taken by the respondent-Nigam that since he did not furnish the succession certificate, he was not entitled to grant of remaining retiral benefits which caused delay. However,

it is the case of the respondents-Nigam themselves that they have paid the entire amount of retiral benefits to the petitioner in the year 2019-2020. It is also submitted by both the learned counsel for the parties that even the application pertaining to the succession certificate is still pending before the Court.

6. A query was raised to the learned counsel for the respondent-Nigam as to under which provision of law the succession certificate was required even after knowing that the petitioner was entitled to the retiral benefits because the Nigam themselves paid the Ex-gratia amount and they have themselves paid the entire retiral benefits without any order from any Court or any authority to which the learned counsel for the respondent-Nigam could not justify the same.

7. This Court is of the view that in the absence of any legal bar or any requirement for grant of succession certificate, the retiral benefits could not have been withheld by the Nigam particularly in view of the fact that the Nigam themselves have released the retiral benefits to the petitioner without any order from the Court or any authority after understanding that the petitioner was entitled for the same. The retiral benefits have been paid to the petitioner in the year 2019-2020, although the father of the petitioner died in the year 2017 and as per Annexure P-4, the Legal Heir Certificate has already been furnished by the petitioner. The prayer in the present petition is for grant of interest only. A Full Bench judgment of this Court passed in **"A.S. Randhawa Vs. State of Punjab and others"**, 1997(3) SCT 468, held that a separate petition for grant of interest is maintainable. It is also a settled law that the retiral benefits/pensionary benefits are Right to

Property under Article 300-A of the Constitution of India and a person cannot be deprived of Right to Property except with authority of law. In the present case, there is no justification from the Nigam to have deprived of the petitioner from the aforesaid right.

8. Consequently, the present petition is allowed. The respondent-Nigam is directed to pay an interest @ 6% per annum to the petitioner after calculating the same from two months after the death of the father of the petitioner till the date of its disbursement on all the retiral benefits within a period of three months from today.

9. In case, the aforesaid amount is not paid to the petitioner within a period of three months from today, then the petitioner shall be entitled for future interest @ 9% per annum instead of 6% per annum.

06.02.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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