



236
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18682-2022 (O&M)
Date of decision: 02.09.2024

Sujata Mehta

...Petitioner

VERSUS

Dakshin Haryana Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S.K. Verma, Advocate, for the petitioner.

Mr. Ravinder S. Budhwar, Advocate, for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the action of the respondents of not granting interest on the arrears of family pension w.e.f. 20.05.2008 to 31.07.2020, with a further prayer to direct the respondents to grant interest to the petitioner on the arrears of family pension released by respondent No.4 w.e.f. 20.05.2008 to 31.07.2020.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is a widow and her husband was working as Reader-cum-Circle Superintendent in the erstwhile Haryana State Electricity Board and he retired from the aforesaid Board on 30.06.1999. He submitted that after the death of the husband of the petitioner, she was entitled for the grant of family



pension and she rather filed an application before the Dakshin Haryana Bijli Vitran Nigam/respondent No.1 on 20.10.2010 for grant of family pension but it was so intimated to her vide Annexure P-2 that since her husband has already retired prior to bifurcation of HSEB into four organizations on 30.06.1999, such like cases are to be dealt with by HVPNL authorities and, therefore, necessary correspondence may be made with HVPNL authorities. Thereafter, the petitioner had been running from pillar to post and had also been meeting various officers of the respondent/Nigam but the family pension was not sanctioned to the petitioner. He also referred to letter Annexure P-4 wherein the petitioner again requested the respondent No.1 that her husband had died on 19.05.2008 and she has gone into depression and she has not received any pension. He submitted that thereafter now the family pension has been granted to the petitioner by respondent No.4/HVPNL on 24.07.2020, as per the reply filed by the respondents. He submitted that there had been a delay of about 12 years in the grant of family pension to the petitioner because of fault of the respondents and not because of fault of the petitioner and, therefore, the petitioner is entitled for interest on the aforesaid delayed payment.

3. On the other hand, learned counsel appearing on behalf of the respondents while referring to the reply filed by the respondents submitted that the husband of the petitioner was employee of erstwhile Haryana State Electricity Board and the aforesaid Board was bifurcated into different organizations i.e. HVPNL, DHBVNL, HPGCL & UHBVNL in terms of Haryana Electricity Act, 1997 and so far as the employees who had retired on or before 30.06.1999, they were to be dealt with by the HVPNL but the petitioner had filed an application to the DHBVN and she was informed vide



Annexure P-2 by the DHBVN that such cases are to be dealt with by the HVPNL but the petitioner did not file any application before the HVPNL and that was the reason as to why there was a delay in disbursement of family pension. He submitted that the application which was filed before the DHBVN was ultimately forwarded before the HVPNL, Panchkula and thereafter, the family pension was paid to the petitioner on 24.07.2020.

4. I have heard the learned counsel for the parties.

5. It is a case of a widow who had been running from pillar to post for grant of her family pension. Her husband died on 19.05.2008 which is more than 12 years ago and undoubtedly she filed an application before one of the bifurcated organizations i.e. DHBVN who instead of forwarding the application to the concerned organization i.e. HVPNL told the petitioner vide Annexure P-2 in the year 2010 to file a separate application before the HVPNL. Thereafter, the petitioner again submitted an application and ultimately in the year 2019, the DHBVN forwarded the application to the HVPNL which is clear from para 3 of reply filed by DHBVN. The aforesaid exercise of forwarding of application could have been done in the year 2010 itself but the same has not been done by the DHBVN and instead the petitioner who is a widow was asked to approach another organization. If a bifurcation of the Haryana State Electricity Board has been done by way of an Act of Legislature and thereafter various instructions have been issued as to whose family pension are to be dealt with by which organization, then it was the job and burden of the Boards which have been incorporated and it was not the job of a poor widow to have known the aforesaid technicalities as to before which organization she had to apply.

The entire onus fell upon the respondents-Statutory Bodies and not upon a poor



widow. The method adopted by the respondents in putting the petitioner who is a poor widow to run from one door to the other is not only insensitive but is also highly deprecated. First of all the petitioner was not supposed to give any application to any agency because she is a widow and there is no dispute of an employee and rather the entire duty was of the respondents to have taken care of the widows whose husband had died for the purpose of grant of family pension. Even if assumingly the petitioner was to file any application, the same has also been done in the year 2010 but no action was taken only on the ground that the petitioner had to file the application before some other organization which was also a bifurcated organization. Such kind of attitude of the respondents is unsustainable and the consequence of the same is that a poor widow was deprived of family pension for 12 years. Now after 10 years in the year 2019 when she again submitted an application to the DHBVN, the same was forwarded by the DHBVN to the HVPNL which could have been done much earlier.

6. The right to receive pension and pensionary benefits including family pension is not only Statutory right but it is also a Constitutional right under Article 300-A of the Constitution of India. A Constitution Bench of Hon'ble Supreme Court in "**Deokinandan Prasad Vs. State of Bihar and others**", 1971(2) SCC 330 held as as under:-

*"31. 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) Punj & Har 278. 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.

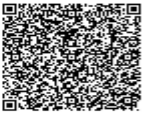


32. This Court in State of Madhya Pradesh v. Ranojirao Shinde and another, AIR 1968 SC 1053 had to consider the question whether a "cash grant" is "property" within the meaning of that expression in Articles 19(1)(f) and 31(1) of the Constitution. This Court held that it was property, observing "it is obvious that a right to sum of money is property".

7. It is a settled law that the pension and pensionary benefits including a family pension is not a charity done by the State and it is a duty of the State to provide the pension and family pension to its employees and cannot make its employees or especially the widows of the employees to run from pillar to post.

8. Considering the aforesaid facts and circumstances of the present case, the present petition is allowed. The respondents are hereby directed to grant interest @ 6% per annum (simple) to the petitioner which is to be calculated from the date of death of the husband of the petitioner till the date of its actual disbursement within a period of three months from today. 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 (simple) instead of 6% per annum (simple).

9. A poor widow has been denied benefit of family pension for 12 long years because of unjustified reasons as aforesaid and she had to run from pillar to post only because the organization was bifurcated and the petitioner did not file an application before the assigned organization. In this way, the respondents have abdicated their duties by not granting family pension to a widow to which she was otherwise entitled under the law and regarding this there was no dispute and therefore, the petitioner is entitled for exemplary costs



which are assessed as Rs.1,00,000/- (One Lac) which shall be shared equally i.e Rs. 50,000/- each by respondents DHBVN and HVPNL. The amount shall be paid to the petitioner within three months.

(JASGURPREET SINGH PURI)
JUDGE

02.09.2024
rakesh

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