

211

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26328-2017
Date of decision: 25.01.2024

HARJINDER KAUR

...Petitioner

VERSUS

STATE OF HARYANA AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Abhishek Sobti, Advocate for
Mr. Surender Kumar Sharma, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Abhishek Arora, Advocate for
Mr. Sumit Jain, Advocate for respondents No.2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction especially in the nature of mandamus directing the respondents to pay interest on the delayed payment of family pension, leave encashment, gratuity and DCRG to the petitioner from the date of death of the husband of the petitioner till the payment of family pension, leave encashment, gratuity and DCRG was made i.e. with effect from 20.09.1996 to November, 2015, at the rate of 12% per annum.

2. The brief facts of the present case are that the petitioner is a widow of one Balwinder Singh, who was working as a Peon in the Market Committee,

Naraingarh from 19.12.1991. Unfortunately, the husband of the petitioner passed away on 20.09.1996. The petitioner being a widow of aforesaid Balwinder Singh was thereafter granted the benefit of ex-gratia, GIS and GPF immediately after the death of her husband. However, the petitioner was not granted family pension, leave encashment and DCRG and the same were granted to the petitioner in the year 2015. The prayer in the present writ petition is for grant of interest on the aforesaid delayed payment of family pension, leave encashment and DCRG since there was no justifiable reason with the respondents to have withheld the aforesaid benefits.

3. Learned counsel appearing on behalf of the petitioner submitted that after the death of the husband of the petitioner, the petitioner was also entitled for grant of family pension, leave encashment and DCRG immediately thereafter but the respondent-Board did not pay the same to the petitioner till the year 2015 and in this way, there had been a delay of more than 18 years in the disbursal of the aforesaid amount. However, so far as the amount of ex-gratia, GIS and GPF is concerned, the petitioner is not praying for any interest on the same because the same was paid to the petitioner well within time. He further submitted that so far as the aforesaid three heads i.e. family pension, leave encashment and DCRG are concerned, the petitioner had moved a representation vide Annexure P-1, Annexure P-2 and Annexure P-3 and it was thereafter that in the year 2015, the aforesaid amount was paid to the petitioner with a delay of more than 18 years.

4. On the other hand, learned counsel appearing on behalf of respondents No.2 and 3 while referring to the written statement filed on behalf of respondents No.2 and 3 submitted that so far as the grant of family pension,

leave encashment and DCRG is concerned, the same could not be paid to the petitioner in view of the fact that she never applied for the same at the time of death of her husband and it was only for the first time that she had applied on 13.07.2015, whereby she submitted the relevant documents in which she had stated that she was not aware of the entitlement of the aforesaid benefits and on receipt of the aforesaid documents, the case of the petitioner was processed and the arrears of family pension upto 31.10.2015 were paid to the petitioner. He further submitted that the arrears of the family pension were paid to the petitioner on 29.02.2016, leave encashment was paid on 22.12.2015 and DCRG was paid on 12.08.2016. He also submitted that in the absence of any claim or representation made by the petitioner for the grant of aforesaid benefits, a delay has occurred since the respondent-Board could not have processed the claim of the petitioner without her application.

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

6. The short point involved in the present case is with regard to the claim of the petitioner, who is a widow for grant of interest on the delayed payment of family pension, leave encashment and DCRG. The husband of the petitioner had died on 20.09.1996 and immediately thereafter, benefit of ex-gratia, GIS and GPF was paid to the petitioner being legally entitled and being a widow of aforesaid Balwinder Singh. However, the respondent-Board did not pay the petitioner the benefit of family pension, leave encashment and DCRG. The only reason that has been given by the respondent-Board in the written statement and also argued by the learned counsel appearing on behalf of respondents No.2 and 3 is that the petitioner did not ask for the same nor any representation was filed by her. This Court is of the view that grant of pension

and family pension is a Constitutional Right and is a right to property under Article 300-A of the Constitution of India apart from being a statutory right under the Service Rules. Such a plea taken by the respondent-Board is unsustainable and not acceptable because it is a duty of the State or any other instrumentality of the State to grant the benefits which are otherwise available to the persons, who are entitled for the grant of pension and pensionary benefits. It is not a case where an employee has retired and he has not submitted his documents pertaining to grant of pension and pensionary benefits but it is a case where an employee has died and the widow of the employee was entitled for grant of family pension, leave encashment and DCRG. For this purpose, it is not expected that the widow would file any application or representation to the respondent-Board for the same. It was rather a duty of the respondent-Board to have immediately granted the aforesaid benefits in accordance with law. Learned counsel for the petitioner referred to judgment of a Coordinate Bench of this Court in **Shakuntala Jain versus State of Haryana, 2001 (1) S.C.T. 24** in this regard.

7. After hearing learned counsel for the parties, this Court is of the view that the present writ petition deserves to succeed.

8. Consequently, the present writ petition is allowed. The petitioner shall be entitled for the grant of interest on the delayed payment of family pension, leave encashment and DCRG with effect from its accrual till the date of its disbursement, which comes out to be more than 18 years along with interest @ 6% per annum. Respondents No.2 and 3 are directed to calculate the aforesaid interest and pay the same to the petitioner within a period of three months from today. In case the aforesaid amount is not paid to the petitioner

within the aforesaid period, then the petitioner shall be entitled to future rate of interest @ 9% per annum.

9. Apart from the above, since the petitioner is a widow and the benefits which had flown to her in the nature of family pension, leave encashment and DCRG were given to her after a lapse of more than 18 years, the petitioner shall also be entitled for costs, which are assessed at Rs.50,000/-. The aforesaid costs shall also be paid to the petitioner within a period of three months from today.

25.01.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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