

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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2024:PHHC:043733

CWP No.19647 of 2022

Date of Decision:02.04.2024

Hardeep Kaur Gill

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. V.K.Shukla, Advocate
for the petitioner
Mr. Pawan Kumar, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Memo dated 23.07.2019 whereby her family pension and other retiral dues have been withheld.

2. The husband of the petitioner was working with respondent-department as Inspector. He died in harness on 19.05.2019. FIR No. 81 dated 20.05.2019, under Sections 306, 342, 201 of IPC came to be registered at Police Station Sadar Faridkot. His name was also added in the FIR on 22.05.2019 though he had already expired. Trial emanating from FIR No. 122 dated 07.10.2015 was also pending at the time of his death which abated on account of his death. FIR registered on 20.05.2019 also abated qua him on account of his death. As confirmed by Mr. Pawan Kumar, DAG, Punjab, the co-accused in FIR No. 122 dated 07.10.2015 has been acquitted.

3. The respondents on account of registration of aforesaid FIRs withheld pensionary benefits of widow of said employee. During pendency

of present petition, as confirmed by State counsel, 75% of leave encashment, 75% of family pension and 100% of Provident Fund have been released. Concededly, neither departmental nor criminal proceedings are pending against deceased employee. The State can withhold pensionary benefits if departmental or criminal proceedings are pending against an employee. In the absence of departmental or criminal proceedings, the State has no right to withhold pensionary benefits for indefinite period. The husband of the petitioner died on 19.05.2019 and a period of almost five years has passed away, thus, it is inequitable to withhold pensionary benefits. There is further no statutory provision which empowers State to withhold pensionary benefits of an employee for an indefinite period against whom no departmental or criminal proceedings are pending.

4. In the wake of above discussion and findings, the respondent-State is hereby directed to release pensionary benefits to the petitioner within three months from today. It is made clear that State, as conceded by petitioner, shall not be liable to pay interest on arrears.

4. In view of the above, petition stands disposed of.

02.04.2024
paramjit

(JAGMOHAN BANSAL)
JUDGE

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