2024:PHHC:104726

107+270 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-12415-CWP-2024 in/and
CWP No.17502 of 2023
Date of Decision : 12-08-2024

TARJINDER KAUR ....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

........Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Garg, Advocate
for Mr. Naveen Batra, Advocate for the petitioner.

Mr. Swapan Shorey, DAG Punjab.

Mr. H.S. Jugait, Advocate
for the applicant/respondent No.5.

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<u>HARSIMRAN SINGH SETHI, J. (Oral)</u>

<u>CM-12415-CWP-2024 in/and CWP No.17502 of 2023</u>

This is an application for modification of the order dated 07.02.2024.

By this application, the applicant/respondent No.5 is seeking waiving of Rs.10,000/- as cost by giving his reason as to why the reply could not be filed within a period of 8 weeks.

Learned counsel for the petitioner very graciously submits that he has no objection in case the said order is modified to the extent that in case reply is not filed upto the next date of hearing, the respondents be held liable to pay the cost.

Keeping in view of above, the order dated 07.02.2024 is modified that in case reply is not filed upto the next date of hearing, the applicant/respondents are not liable to pay the cost.

<u>CWP No.17502 of 2023</u>

Reply has been filed.

In the present petition, the grievance raised by the petitioner is that the service benefits including the family pension in respect of the service rendered by her late husband Raj Kumar have not been released, which is causing prejudice to the petitioner.

Learned counsel for the petitioner submits that the husband of the petitioner was working with the respondent-Department and unfortunately died on 18.09.2019 (Annexure P-1) while in service and the service benefits including family pension has not been released to the petitioner that too without their being any impediment.

Upon notice of motion, Mr. Swapan Shorey, DAG Punjab has appeared and accepts notice on behalf of the respondent-State and submits that all the benefits for which the petitioner is found entitled for after the death of her husband have already been released along with arrears and therefore, the grievance raised by the petitioner in the present writ petition stands satisfied.

At this stage, learned counsel for the petitioner submits that the husband of the petitioner had died in the year 2019 whereas, the benefits have been released in July, 2024 and therefore, the petitioner is entitled to be compensated by the grant of interest.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

There is no dispute with regard to the release of the benefit for which the petitioner is entitled for. The only question is that the benefits have been released after the period of 5 years of the entitlement.

A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** has held that an a employee is entitled to release the pensionary benefits within a period of 2 months in case there is no impediment and in case the same are not released, the employee is to be compensated by the grant of 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 retirer 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 front 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.*"

The said finding is to be applied where, after the death of a employee, the family pension is to be paid and the service benefits are to be extended to the legal heirs. Once, no impediment existed in release of benefit after the death of the husband of the petitioner, as the same was not released for a period of 5 years, the respondents are under obligation to compensate the petitioner by the grant of interest.

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 **J.S. Cheema's case (supra)** 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.*"

Keeping in view of the above, the arrears which have been released to the petitioner, the petitioner is held entitled for interest @ 6% per annum from 01.10.2019 onwards till the actual date of payment.

Let the amount of interest for which petitioner is entitled for be calculated and released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Present petition is disposed of in above terms.

Pending application, if any, also stands disposed off.

12-08-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking : YES/NO
Whether reportable: YES/NO