

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CWP-30113-2022
Date of Decision: 28.02.2024

Sushila Devi ...Petitioner

Versus

Union of India and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jai Parkash Dhull, Advocate for the petitioner
Mr. Narender Kumar Vashist, Senior Panel Counsel,
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to the respondents to pay interest @ 18% per annum on delayed payment of *ex-gratia* amount on account of death of husband of the petitioner.
2. The husband of the petitioner (Hawa Singh) joined Railway Protection Force as Constable and while on duty he passed away on 23.03.1999. The petitioner was entitled to *ex-gratia* amount of ₹ 5 Lakhs as per policy of the respondent. The petitioner, from time to time, approached the authorities for the release of various benefits including *ex-gratia* amount. The respondent vide communication dated 28.12.2017 (Annexure P-5) accepted

that claim of the petitioner for *ex-gratia* amount is pending with the Head Office. The said amount was ultimately released on 21.06.2022.

3. Mr. Jai Parkash Dhull, Advocate submits that petitioner is entitled to interest on the delayed payment. The respondent accepted its liability on 28.12.2017, thus, at least from this date, respondent should pay interest.

4. Learned counsel for the respondent submits that *ex-gratia* amount was not a matter of right of the petitioner and it was a concession extended by the respondents, thus, there is no question of interest.

5. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

6. The Apex Court in ***S.K. Dua v. State of Haryana, 2008 (3) SCC 44*** has clearly held that an employee can claim interest in terms of Part III of Constitution of India. The relevant extracts of the said judgment read as:

“13. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on 30-6-1998. It is also undisputed that at the time of retirement from service, the appellant had completed more than three decades in government service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. True it is that certain charge-sheets/show-cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr Quraishi against whom serious allegations of malpractices and

misconduct had been levelled by the appellant which resulted in removal of Mr Quraishi from the post of Secretary, Irrigation. The said Mr Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years.

14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

7. A Full Bench of this Court in **A.J. Randhawa, Supg. Engineer (Retd.) v. State of Punjab, 1997 SCC OnLine P&H 705** has adverted with an identical issue and held that an employee normally would be paid retiral benefits within two months and in case of payment beyond two months, he shall be entitled to interest. The relevant extracts of the said judgment read as:

“9. 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 retiree 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 from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair case [1985 (2) L.L.N. 18] (vide 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. Again, as to what should be the rate of interest, it should, in our view, be generally 12 per cent unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18 per cent.”

8. In the wake of aforesaid judgments, it is quite evident that an employee is entitled to interest if payment of retiral dues is made beyond two months from the date of retirement. In view of changed rate of interest granted by banks, at present an employee cannot be granted interest beyond 7.5% per annum.

9. The contention of the respondent is misconceived because interest is compensatory in nature and it is granted on account of utilization of funds of another party. The husband of the petitioner passed away in 1999 and respondent in its communication dated 28.12.2017 accepted that matter is

under consideration. As conceded by learned counsel for the petitioner, the respondent was duty bound to pay interest at least from the said date.

10. In view of above facts and findings, it is hereby held that the petitioner is entitled to interest @ 7.5% per annum on delayed payment from 01.01.2018 to date of payment i.e. 21.06.2022.

11. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

28.02.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>