

Before M.M. Kumar & Sabina, JJ.

RAM PIARI,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 9984 of 2007

21st July, 2008

Constitution of India, 1950—Arts. 226—Instructions dated 2nd May, 1989—Para 2.8(iii)—Husband of petitioner died in harness— Delay of over 2 years in making payment of General Provident Fund— Claim for interest—Petitioner cannot be blamed for submission of incomplete form as form should have been got filled by Maintenance Authority—Delay beyond six months in making payment is impermissible—Petitioner held entitled to interest 12% for delayed payment with effect from 2nd October, 2003 i.e. after 6 months of date of death of her husband.

Held, that according to instructions the form should have been got filled by the Maintenance Authority in form PF-10 from the petitioner immediately after the death of her husband. If the form was incomplete then how can the petitioner be blamed. The maximum period of processing the case could be kept at six months. Any delay beyond six months in making payment of G.P.F. is impermissible and would qualify for levy of interest. The husband of the petitioner died on 2nd April, 2003 and till 2nd October, 2003 G.P.F. should have been paid but it was actually paid on 2nd November, 2005. There is delay of over two years in making the payment of Rs. 2,19,632.

(Para 4)

R.K. Arora, Advocate, *for the petitioner.*

P.C. Goyal, Sr., D.A.G. Punjab.

M.M. KUMAR, J.

(1) The husband of the petitioner Shri Gulzar Lal was working as Sub Divisional Clerk in the office of the Sub Divisional Engineer, Water Supply and Sanitation Department (RWS), Sub Division Dasuya under Division Talwara, District Hoshiarpur. Unfortunately he died on 2nd April, 2003 while in service. G.P.F. amount standing to the credit of the deceased employee was released to the petitioner on 2nd November,

2005 which was after about two and half years. The petitioner has claimed interest on delayed payment by filing the instant petition. In that regard reliance has been placed on para 8(iii) of the instructions dated 2nd May, 1989 (Annexure P-2). According to para 8(iii) of the instruction the Provident Fund money at the credit of a subscriber becomes payable on the fulfillment of the conditions laid down in para 13.28 of the Punjab Civil Service Rules, Volume II which provides that the amount becomes payable when he retires or *inter alia* dies. It further provides that as soon as such an event occurs the Maintenance Authority should ask the subscriber/legal heir of the deceased employee to fill in the form in PF 10. Para 8(iv) of the instructions further provides that the account should be updated allowing interest up to the end of the month preceding the month in which the payment has become due.

(2) It is admitted position that husband of the petitioner expired on 2nd April, 2003 and the amount of G.P.F. standing at the credit of the husband of the petitioner amounting to Rs. 2,19,632 became payable. However, it has been submitted that the delay has been caused because the petitioner applied for G.P.F. on 29th September, 2004 and the form being incomplete was returned back. She applied on 28th March, 2005 and G.P. Fund was sanctioned on 28th October, 2005. Accordingly the payment was made by cheque on 2nd November, 2005. Therefore it is claimed that the delay is imputable to the petitioner.

(3) After hearing the learned counsel for the parties and perusing the paper book we are of the considered view that this petition deserves to succeed. According para 2.8(iii) of the instructions dated 2nd November, 1989 an obligation has been cast on the Maintenance Authority to ask the legal heirs of the deceased employee to fill in the form in P.F. 10 immediately when any of the event like death of an employee occurs. The afore- mentioned para reads thus :

“8(iii)Final payment of G.P.F.

Deduction of subscription should be stopped six months ahead of the actual month of retirement. DD/Subscriber will be responsible for taking steps in this behalf, i.e. an employee retiring on 30th June, must get his deduction of subscription stopped from the pay for January. This will be in the interest of subscriber and Department. The Head of Department is to keep an eye on the enforcement of this provision.

The Provident Fund money at the credit of the subscriber becomes payable on the fulfillment of the provisions of the Punjab G.P.F. Rules 13.28 of Punjab CSR Volume II, i.e. the amount will become payable, when a Government employee, retires, or on his application when he proceeds on leave preparatory to retirement or when he dies. As soon as, such an event occurs, the Maintenance Authority should ask the subscriber/ legal heir of the deceased employee to fill in the form in P.F. 10 (specimen enclosed). The amount of the subscriber should be thoroughly and carefully checked with reference to any temporary advance and any other non refundable advance taken during the last two years. The scrutiny should be done for the two years only.”

(4) It is therefore evident that according to instructions the form should have been got filled by the Maintenance Authority in form P.F. 10- from the petitioner immediately after the death of her husband. If the form was incomplete then how can the petitioner be blamed. The maximum period of processing the case could be kept at six months. Any delay beyond six months in making payment of G.P.F. is impermissible, and would qualify for levy of interest. The husband of the petitioner died on 2nd April, 2003 and till 2nd October, 2003 G.P.F. should have been paid but it was actually paid on 2nd November, 2005. There is delay of over two years in making the payment of Rs. 2,19,632.

(5) For the reasons mentioned above, the writ petition is allowed. The petitioner is held entitled to interest for the delayed payment with effect from 2nd October, 2003 till the date of payment @12 percent p.a. The rate of interest of 12% has been awarded in view of the Full Bench judgment of this Court in the case of **R.S. Randhawa versus State of Punjab (1)**. The needful shall be done within a period of two months from the date of receipt of copy of this order.

R.N.R.