IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

C.W.P. No. OF 2015

Om Pati w/o Late Sh. Jai Bhagwan (Retired WPO) House no. 371 Gali no.6, H.Block, Hanuman Nagar, nahar-par, Kheri-Road ,Faridabad

…………… Petitioner

Versus

1. Haryana Urban Development Authority (HUDA) through its Chief Administrator, Sector -6, Panchkula.
2. Chief Controller of Finance, HUDA, Sector- 6, Panchkula.
3. Executive Engineer HUDA, Division No. II, Faridabad.

---------- Respondents

Civil Writ Petition under Article 226/227 of the Constitution of India, for issuance a Writ in the nature of Mandamus directing the respondents to grant the interest @18% P.A. on the amount of pensionary benefit i.e. G.P.F. ( Rs.4,26,074/-) released by the respondents after an inordinate delay of Two Years which has been withheld by the respondents wrongly, illegally, arbitrary and without any legal justification . AND

further issue any other appropriate writ, order or direction which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case.

RESPECTFULLY SHOWETH:

1. **That** the petitioner is the resident of State of Haryana and being a citizen of India, as such is competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court by way of filing the present writ petition under Article 226 and 227 of the Constitution of India.
2. **That** husband of the petitioner Late Sh. Jai Bhagwan who was the regular employee as Water Pump Operator in the respondent’s office (HUDA) Division No.II, Faridabad retired from service on dated 30.4.2013 after attaining the age of superannuation . He submitted all the documents for retrial benefits before his retirement from service according to government policy .No department proceeding was pending against the husband of the petitioner.
3. **That** after the retirement from his services i.e on 30.4.2013 respondent granted all retrial /pensionary benefits, but G.P.F. amounting to Rs. 4,26,000/- has not been granted to the husband of the petitioner for the reasons best known to the respondents . Husband of the petitioner moved from pillar to post to get this amount of GPF .and unfortunately on dated 17.11.2013 husband of the petitioner died.

**4.** **That** petitioner who is the widow and physical handicapped lady and has 40% permanent impairment (Post Polio Residual Paralysis Lower Limb Right side) pursue this matter after death of her husband, and met personally many times to the respondent no.3 i.e Executive Engineer HUDA, Division No.II, Faridabad but official of the respondent no.3 at Faridabad assured to the petitioner that your case for final payment has been submitted to the Head Office at Panchkula for sanction and as and when sanction will be granted by the Head Office, than the payment of GPF amount will be paid to you. It is pertinent to mention here that family pension has been started to the petitioner w.e.f. January -2014 as evident from the letter is being attached herewith as **ANNEXURE P-1.**

**5.That** petitioner running from pillar to post being widow and official of the respondent no.3 at Faridabad every time stated that your case has been sent for sanction at Head Office Panchkula and the same is evident from the letter dated 14.6.2013 and 27.3.2014 sent by the HUDA office of the Faridabad i.e. respondent n.3 to the Head Office at Panchkula. Letter dated 14.6.2013 and letter dated 27.3.2014 are being attached herewith as **ANNEXURE P-2. & P-3.**

**6. That** respondent no 2 had written a letter dt 31.5.2013 to the respondent no.3 in response to the letter dated 23.5.2013 that during the scrutiny of an application of Non-refundable advance of the member ,the following shortcoming have been noticed that GPF statement is not verified by S.O./D.D.O. In this way ,these letter shows that delay is caused by the respondents in every stage not to release the amount of GPF in time. Letter dated 31.5.2013 is attached herewith as **Annexure P-4.**

**7.** **That** respondents no2 vide letter dated 23.1.2015 sanctioned the GPF payment amount of Rs. 4,26,000/- in favour of the petitioner after the huge delay on part of the respondents without any fault on the part of the petitioner . But this payment was made to the petitioner ultimately on 12.3.2015. Sanction order dated 23.1.2015 is being attached herewith as **ANNEXURE P-5.**

**8. That** it is submitted that husband of the petitioner retire from service on 30.4.2013 and he submitted all documents for the payment of GPF amount immediately before the retirement but the respondents/authority delaying the matter on one excuse or the others. In the meantime, the husband of the petitioner unfortunately died on 17.11.2013. After great persuasion, the amount of GPF paid to the petitioner on 12.3.2015 but the said payment has been made without any interest .

**9. That** an employee is entitled for all his retirement benefits ,In the present case ,the respondents have not paid the due amount to the petitioner or to the husband of the petitioner in time .The payment has been made after a delay of two years and that too after running from pillar to post .So, the petitioner is entitled the interest on the delayed payment of GPF amount and the respondents are liable to pay the interest on the said amount. Petitioner also made the representation to the respondents to grant the interest on delay payment but all in vain . One of the representation dated 10.4.2015 sent by the petitioner to the respondents is attached here with as **Annexure P-6.**

**10.** **That** the petitioner is the widow lady, having four children, is facing the great hardship after the death of her husband .It is submitted that her case for the release of GPF amount was to be disposed of expeditiously by the department, but they did not do so in time and make the payment of GPF after delay of about two years. Therefore, the respondents are liable to pay interest @ 18% p.a. on the GPF amount i.e. Rs. 4,23,000/-.

**11. That** the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

a) Whether the petitioner is entitled for interest for delayed payment ?

b) Whether the action of the respondents is arbitrary and violative of Articles 14 and 16 of the Constitution of India?

c) Whether a grave manifest injustice has been caused to the petitioner?

**12. That** there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

**13.** **That** the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER :-

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

a writ in the nature of Mandamus directing the respondents to grant the interest @18% P.A. on the amount of pensionary benefit i.e. GPF ( Rs.4,26,074/- released by the respondents after an inordinate delay of Two Years which has been withheld by the respondents wrongly, illegally, arbitrary and without any legal justification . AND

further issue any other appropriate Writ, Order or Direction which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case.

ii) Filing of true typed of annexure,s be also dispensed with;

CHANDIGARH Through: Petitioner

DATED: 20.9.2015 (SURESH AHLAWAT)

ADVOCATE

Counsel for the petitioner.

*VERIFICATION*

Verified that the contents of Para No. 1 to 10 and 12 to13 of the writ petition are true and correct to my knowledge. Legal submissions made in para No.11 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed therefrom.

Place: Chandigarh Petitioner

THE HIGH COURT OF PUNJAB AND HARYA AT CHANDIGARH

C.W.P. No. OF 2015

Om Pati …….. …Petitioner

Versus

HUDA and others. …………. …Respondents

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*NOTES:-*

1. The main law points canvassed in this writ petition are contained in para No. 11 at page and thereof.

2. *Relevant Acts and Statutes* - Constitution of India.

3. Whether any Caveat/Petition has been filed in this case of not. -Nil-

4. *Similar Case, if any*. -Nil-

CHANDIGARH ( SURESH AHLAWAT )

P/370/1994

DATED : 20.9.2015 ADVOCATE

COUNSEL FOR THE PETITIONER

LIST OF EVENTS

**That** husband of the petitioner Late Sh. Jai Bhagwan who was the regular employee as Water Pump Operator in the respondent’s office (HUDA) Division No.II, Faridabad retired from service on dated 30.4.2013 after attaining the age of superannuation .

**That** after the retirement from his services i.e on 30.4.2013, respondents granted all retrial /pensionary benefits, but G.P.F. amounting to Rs. 4,26,000/- has not been granted to the husband of the petitioner for the reasons best known to the respondents and unfortunately on dated 17.11.2013 husband of the petitioner died.

**That** petitioner who is the widow and physical handicapped lady and has 40% permanent impairment (Post Polio Residual Paralysis Lower Limb Right side) pursue this matter after death of her husband, and met personally many times to the respondent no.3 i.e Executive Engineer HUDA, Division No.II, Faridabad . It is pertinent to mention here that family pension has been started to the petitioner w.e.f. January -2014.

**That** petitioner running from pillar to post being widow and official of the respondent no.3 at Faridabad every time stated that your case has been sent for sanction at Head Office Panchkula and the same is evident from the letter dated 14.6.2013 and 27.3.2014 sent by the HUDA office of the Faridabad i.e. respondent n.3 to the Head Office at Panchkula.

**That** respondent no 2 had written a letter dt 31.5.2013 to the respondent no.3 in response to the letter dated 23.5.2013 that during the scrutiny of an application of Non-refundable advance of the member ,the following shortcoming have been noticed that GPF statement is not verified by S.O./D.D.O.

**That** respondents no2 vide letter dated 23.1.2015 sanctioned the GPF payment amount of Rs. 4,26,000/- in favour of the petitioner after the huge delay on part of the respondents without any fault on the part of the petitioner . But this payment was made to the petitioner ultimately on 12.3.2015. So, the petitioner is entitled the interest on the delayed payment of GPF amount and the respondents are liable to pay the interest on the said amount.

**10.4.2015**  Petitioner also made the representation to the respondents to grant the interest on delay payment but all in vain .

**----- hence this writ petition.**

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : 20.9.2015 ADVOCATE

COUNSEL FOR THE PETITIONER

OFFICE OF THE EXECUTIVE ENGINEER HUDA DIVISION NO.II FARIDABAD

TO

The Account Officer

O/o Chief Controller of Finance

HUDA Panchkula.

Memo no. 6602 Dated 14.6.2013

Sub: Application for final payment from FPF no. 698 of Sh. Jai Bhagwan WPO

Kindly refer your letter no. HUDA-Pension/26830 dated 31.5.2013

On the subject cited above ,the final payment case is herewith resubmitted after attending the observation for further information and necessary action please.

DA/As above

(Bhupinder Singh)

Executive Engineer

HUDA Division No.-2

Faridabad

To

The Chief Administrator, HUDA

Sector-6 Panchkula.

Subject: To grant the interest @ 18% p.a. over the pensionary benefit i.e. GPF amount Rs. 4,26,074/- of late Sh.Jai Bhagwan (WPO)

R/Sir,

It is submitted that my husband Sh. Jai Bhagwan was working as WPO in the office of the Executive Engineer , HUDA Division no.2 Faridabad . My husband was retired from service on dated 30.4.2013 but after retirement his amount of GPF was not released and later on, he died on dated 17.11.2013. After that , I applied my family pension and I requested again and again for releasing the amount of GPF for two years . But G.P.F. amount of my husband about Rs. 4,26,000/-was released after two years without any interest on 12.3.2015.

So, I am requested that I am widow and handicap lady and I have four children . Kindly grant interest on GPF amount of two years @ 18% p.a . which makes from 30.4.2013 to 12.3.2015 .

Applicant

Om Pati W/O of late Sh. Jai Bhagwan

House no. 371,Gali no.6, H. Block, Hanuman Nagar, Kheri Road, Faridabad

OFFICE OF THE EXECUTIVE ENGINEER HUDA DIVISION NO.II FARIDABAD

TO

The Account Officer

HUDA Pension Cell

Panchkula.

Memo no. 2606 Dated 27.3.2014

Sub: Application for final payment from FPF no. 698 of Sh. Jai Bhagwan, WPO

Kindly refer to this l memo no.6602 dated 14.8.2013

On the subject cited above, it is submitted that the GPF final payment case of Sh. Jai Bhagwan ,WPO was submitted in your good office vide letter under reference .The same is still awaited.

It is, therefore, requested to finalizes the said case earliest so that payment may be made to official.

(Bhupinder Singh)

Executive Engineer

HUDA Division No.-2

Faridabad

HARYANA URBAN DEVELOPMENT AUTHORITY

C-3, SECTOR-6, PANCHKULA

No.HUDA-Pension /26830

To

The Executive Engineer

HUDA Division No.-2

Faridabad.

Subject:- Application for withdrawal from GPF no. 698 of Sh. Jai Bhagwan Designation WPO

Ref. Your office letter no. 5504 dated 23.5.2013

During the Scrutiny of an application of Non-refundable advance of the member ,the following shortcoming have been noticed;

1. **GPF Statement is not verified by S.O. /DDO**

**2 to 21** xxxxxxxxxxxxxxxxxxx

Your are, therefore, requested to submitted the case after attending the above mentioned observation and sand the case to this office.

DA/as above Accounts Officer (Pension),

For Chief Controller of finance,

HUDA, Panchkula.