

218 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-20393-2016

Date of Decision: 04.04.2022

Swaran Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. A.S. Narang, Advocate,
for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for the grant of family to the petitioner, who is the mother of the deceased.

Learned counsel for the petitioner argues that the son of the petitioner, namely Satnam Singh, was employed with respondent No.2, i.e. the Punjab Armed Police. He was married and was having a son and the petitioner, i.e. the mother of Satnam Singh, who is a widow, was dependent upon his son. Unfortunately in a car accident on 04.06.2006, Satnam Singh as well as his son died. Thereafter keeping in view the rules governing the service of Satnam Singh, his widow was found eligible for the grant of family pension. As per the said rules, in case the widow re-marries, she loses her right for the grant of family pension. In the present case, it is a conceded position that on 02.12.2008, widow of Satnam Singh, i.e. respondent No.5, got re-married to one Makhan Singh and since then she is residing with her second husband. Therefore after 2008, the petitioner

became the lone survivor of the family and claimant for the grant of family pension. Though upon filing the application by the petitioner for the grant of family pension, her case was initiated by the authorities concerned but the same was never finalized. Ultimately, the respondents concluded that the rules governing the service of the deceased, namely Satnam Singh, explicitly does not grant the benefit of family pension to the mother, after once the family pension has already been extended to the widow, and the claim of the petitioner for the grant of family pension was not accepted, which has led the petitioner to file the present petition.

Upon notice of motion, the respondents have filed a reply, wherein they have stated that keeping in view the rules governing the service of the deceased-Satnam Singh, the family pension is to be extended initially to the widow of the deceased in exclusion of everyone else and if the widow becomes ineligible for grant of the same, the grant of family pension is extended to the children of the deceased in exclusion of everyone else. The respondents have further mentioned that though the parents of the deceased are also entitled for the grant of family pension, in case they are dependent upon the deceased, but the said benefit can only be extended to them, in case the deceased did not leave behind either a widow or any child and the total income of the parents, from all sources, does not exceed Rs.2,620/- per month. Learned State counsel submits that as in the present case, the widow of deceased-Satnam Singh was granted the benefit of family pension from the year 2006 to 2008, but after she got re-married, the family pension was stopped, hence keeping in view the terms and conditions of this case, the petitioner cannot be treated to be eligible for the grant of the family pension keeping in view the rules governing the service of the

deceased.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The family pension is to be allowed to the dependent so as to mitigate the financial hardships of the family. The rules governing the service of the deceased are to be adhered to while examining the eligibility/entitlement of the family left behind by the deceased. Concededly in the present case, the rules governing the service of the deceased-Satnam Singh for the grant of family pension is tagged by the respondents along with their reply (Annexure R-1), which is to be taken into consideration for the grant of family pension to the petitioner. The said rule is as under:-

“ - x - x -
ii) *Parents who were wholly dependent on the Government employee when he/she was alive provided that the deceased employee had left behind neither a widow nor a child. The parents whose total income from all sources was Rs.2620/- per mensem or more at the time of death of the employee shall not be considered to be dependent.*”

A bare perusal of the above would show that initially the widow of the deceased is entitled for the grant of family pension in exclusion to the others, including the children of the deceased. The widow becomes dis-entitled for the said benefit of family pension in case she re-marries. Thereafter, the children of the deceased become entitled for the grant of family pension but up to a certain age. It is also a conceded position that the dependent parents are also entitled for the grant of family pension, but the interpretation being extended to the above mentioned rule is that though the parents are entitled for the grant of family pension but in case

when the said benefit of family pension has already not been extended at any given point of time either to the widow or the children of the deceased. As per the respondents, the entitlement of the parents is to be seen at the first instance of granting the family pension, i.e. immediately after the death of the deceased, and not thereafter.

The said interpretation does not achieve the purpose for which the family pension is to be extended. In case the family pension is to be extended by the Department so that the dependent of the deceased are supported and do not suffer from financial hardships, then though it is correct that the widow initially is entitled for the grant of family pension to the exclusion of the others, thereafter, in case the widow becomes ineligible, the children will be entitled for the grant of family pension in exclusion of the others, but when the children also become ineligible for the said benefit, then in case the parents are still alive, who were also dependent upon the deceased and fulfil the other eligibility criteria required for the grant of family pension, their case for the grant of family pension cannot be ignored merely on the ground that the deceased had left behind a widow or the children at the time of death. The entitlement for the grant of family pension to the dependent parents needs to be seen after the widow or the children lose their eligibility for the grant of the said benefit also.

In the present case, the mother of the deceased is claiming for the grant of family pension. It is further a conceded position that as of now, nobody else other than the mother, who was dependent upon the deceased, is alive and she happens to be the lone claimant of the family pension of deceased-Satnam Singh. That being so, the prayer/claim of the widowed mother, who does not have any source of income, for the grant of family

pension, cannot be denied. After the widow of the deceased-Satnam Singh got re-married in December, 2008, petitioner is the lone claimant of the family pension and under rules, parents are entitled for family pension. Correct interpretation of the rule is that parents cannot be granted the family pension to the exclusion of the widow or the children of the deceased employee. The rule governing the service of the deceased regarding the grant of family pension is being interpreted in an unsustainable manner by the respondents.

Keeping in view the facts and circumstances of this case, the widowed mother, who is the only claimant of the family pension after the widow of the deceased got re-married in December, 2008, is held entitled for the grant of family pension from the said date, i.e. from December, 2008.

Let the computation of the family pension to be extended and the respective arrears be released to the petitioner from the date the widow of deceased-Satnam Singh re-married within a period of two months from the date of receipt of the copy of this order.

Allowed in the above terms.

04.04.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes