

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**CWPOA No.3829 of 2019****Decided on: 21st September, 2026**

Urmila Devi and another

....Petitioners

versus

H.P. Road Transport Corporation and others

...Respondents

*Coram****Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹*****For the petitioners:****Ms. Archana Dutt, Advocate.****For the respondents:****Ms. Shubh Mahajan, Senior
Advocate with Mr. Pratap
Sharma, Advocate.****Jiya Lal Bhardwaj, Judge (Oral)**

By way of present petition, the petitioners have prayed
for the following substantive relief:-

"i) *That the respondent Corporation may kindly be directed to grant family pension to the petitioners under the scheme of GPF with consequential benefits in the interest of justice and fair play.*"

2. Shorn of unnecessary details, the key facts of the case are that husband of petitioner No.1 was appointed as Driver with the respondent-Corporation in the year 1993 and husband of petitioner No.2 was appointed as Conductor in the year 1990. The husbands of both the petitioners while posted in Rampur Division in the

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

respondent-Corporation met with an accident on 02.12.1995 while going from Rampur to Rohru and died in the said accident. Before the death of the husbands of the petitioners, the respondent-Corporation had issued an office order dated 06.10.1995 in exercise of the powers conferred by sub-section (1), clause (c) of section 45 of the Road Transport Corporation Act, 1950 with the prior approval of the Government of Himachal Pradesh to sanction pension to its employees and officers, who are not otherwise covered under any pension scheme with effect from 05.06.1995. The husbands of the petitioners had been put under the pension scheme with effect from 23.06.1995, but after death of their husbands, they were not granted the pension under the Central Civil Services (Pension) Rules, 1972 (in short 'CCS (Pension) Rules'). The petitioners had also made representation to the respondents to grant them family pension as per the scheme made applicable by the respondent-Corporation with effect from 05.06.1995, but the respondent-Corporation did not accede to their request, however, appointed them on compassionate grounds as Peon. The respondent-Corporation had granted family pension under the GPF scheme to the families of those employees, who had died after the death of the husbands of the petitioners and thus the respondent-Corporation has acted arbitrarily and further adopted pick and choose method while granting the family pension.

The names of two persons, namely Mohan Singh, Conductor, and Pratap Singh, Drivers, were mentioned, who had died on 13.01.1996 and 1996 respectively and as such prayed that the respondent-Corporation be directed to grant family pension to the petitioners under the GPF scheme with all consequential benefits.

3. The respondent-Corporation filed reply and in preliminary objection, it was averred that the writ petition is not maintainable since the respondent-Corporation has not been impleaded through its Managing Director. However, it can be sued in the name of the Managing Director and not in the name of the Secretary (Transport). On merits, it has been averred that the petitioners were granted the family pension and they were not granted as per the scheme dated 05.06.1995, since both the petitioners had opted to get the family pension under FPF and the petitioners are given the family pension by the Regional Provident Fund Commissioner, Kasumpti, Shimla-9. The options given by the petitioners have been placed on record. Since the petitioners had opted for the family pension under FPF Scheme, hence they cannot be granted the pension under the GPF scheme. It has further been averred that the employees and employers shares have been remitted against CPF No.10824 of late Shri Joginder Singh 9764 of

late Shri Man Singh, the husbands of petitioners No.1 and 2, respectively.

4. The respondent-Corporation has also placed on record the copy of order dated 06.10.1995, whereby the CCS (Pension) Rules, 1972 have been adopted and made effective with effect from 05.06.1995. The copy of order dated 13.09.1995, issued by the Commissioner-cum-Secretary, Transport to the Government of Himachal Pradesh has also been placed on record whereby the pension scheme to the employees of the respondent-Corporation w.e.f. 05.06.1995 based on CCS (Pension) Rules has been adopted by the State Government. The respondent-Corporation has been sued through Commissioner-cum-Secretary, Transport to the Government of Himachal Pradesh

5. I have heard the learned counsel for the parties and also perused the record carefully.

6. The respondents while filing reply to the petition have not disputed the fact that the husbands of petitioners No.1 and 2 were working as Driver and Conductor with the respondent-Corporation who were appointed in the year 1993 and 1990, respectively. It has also not been disputed that they had died in an accident occurred on 02.12.1995. The respondent-Corporation has also admitted that the pension scheme was introduced to the

employees of the respondent-Corporation with effect from 05.06.1995 when the CCS (Pension) Rules, 1972 were adopted and the State Government had issued order on 13.09.1995 to introduce the pension scheme to the employees of respondent-Corporation based on CCS (Pension) Rules amended from time to time with the directions to the respondent-Corporation to maintain pension fund for this purpose. It is also not disputed that the husbands of the petitioners were covered under the aforementioned order passed by the Commissioner-cum-Secretary (Transport) to the Government of Himachal Pradesh and thereafter by an order dated 06.10.1995, issued by the respondent-Corporation, thereby extending the benefit to the employees of the respondent-Corporation. The only condition was that the employees had to opt for the said pension scheme.

7. As already observed above, the husbands of the petitioners had opted for the said scheme, but the petitioners were denied the benefit under the pension scheme only for the reason that they had opted to get the family pension under FPF. Once husbands of the petitioners had already opted for the pension scheme, as introduced by the respondent-Corporation as per order dated 06.10.1995 after the order issued by the Commissioner-cum-Secretary, Transport to the Government of Himachal Pradesh on 13.09.1995, it was incumbent upon the respondent-Corporation to

extend the benefit to the petitioners, after the demise of their husbands. The plea taken by the respondents in the reply that the petitioners had opted to get the family pension under FPF has no relevance for the simple reason that their husbands were covered under the pension scheme, which was introduced by the respondent-Corporation and the said scheme being beneficial to the petitioners, it was incumbent upon the respondent-Corporation to grant the benefit to the petitioners under the CCS (Pension) Rules, 1972, which were adopted for the employees of the respondent-Corporation. Non-grant of the said benefit to the petitioners has caused injustice to them.

8. The petitioners in the writ petition has specifically mentioned that the respondent-Corporation, in case of other employees, who were also serving with the respondent-Corporation, but died subsequent to the death of husbands of the petitioners have been granted the benefit of the pension scheme under the CCS (Pension) Rules, 1972 and there is no denial to the said fact while filing reply to the petition. Thus, the petitioners are also held entitled to receive the same benefits and non-grant of the said benefits to the petitioners is arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

9. The plea taken by the respondent-Corporation that the writ petition is not maintainable since the respondent-Corporation has not been impleaded through the Managing Director is rejected for the reason that the Managing Director of the Corporation has also been impleaded as respondent No.2. Not only this, the Secretary (Transport) to the Government of Himachal Pradesh who has issued order dated 13.09.1995, the respondent-Corporation has been sued through him. Once the respondent-Corporation is aware about the case, the petition instituted by the petitioners can't be rejected on such technical ground.

10. Consequently, the present petition is allowed and the respondent-Corporation is directed to grant family pension to the petitioners under the CCS (Pension) Rules, 1972, which was adopted by the respondent-Corporation as per order dated 06.10.1995. The respondent-Corporation is further directed to pay the arrears of pension to the petitioners within a period of six months from today, failing which, the respondent-Corporation shall pay interest @6% per annum on the arrears from today till its actual payment.

11. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, shall also stand disposed of.

21st September, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge