

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.4830-1997

Date of Decision:16.09.2015

NARANJAN KAUR

....Petitioner

VERSUS

STATE OF PUNJAB & ORS.

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. M.S Kang, Advocate, for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

P.B BAJANTHRI, J. (Oral)

In this petition, the petitioner has sought for direction to the respondents to pay arrears of D.A on family pension for the period from 01.02.1992 to 19.01.1994 along with interest @ 18 % per annum.

The petitioner was stated to have been appointed as Clerk on compassionate ground due to death of her husband late Sh. Randhir Singh, Junior Engineer in the office of respondent No. 3. Petitioner took premature retirement on health ground w.e.f. 19.01.1994. On account of petitioner's husband death, petitioner was paid family pension, however, arrears of D.A on family pension for the period from 01.02.1992 to 19.01.1994 was not paid. Therefore, petitioner has presented this petition seeking direction to the respondents to release arrears of D.A. along with interest.

Learned counsel for the petitioner submitted that the petitioner

is entitled for arrears of D.A. on family pension for the period from 01.02.1992 to 19.01.1994. On the other hand, learned counsel for the stated resisted the claim of the petitioner contending that petitioner did not opt for the benefit of D.A. on family pension.

Along with statement of objections filed on behalf of the respondents, options furnished by the petitioner is produced as Annexure-R-I. Perusal of Annexure R-I do not indicate the date of option exercised by the petitioner. Exercising option by family pensioner through a policy of the State Government should be made known to the family pensioner. The State has not produced any material to show that such a policy was made known to the petitioner/family pensioner. In the absence of furnishing policy relating to exercising option to family pensioner like petitioner, the State is not expected to exercise option by the family pensioner like the petitioner. Learned counsel for the petitioner relies on decision of this Court passed in

PEPSU Road Transport Corporation Vs. Balwant Singh: 2007 (1) SCT

828. In the said decision, this Court has held that since there is no evidence on record to show that pension scheme has been circulated amongst employees and got noted from them, corporation cannot deny benefit of pension regulations for having not opted for the same. The said judgment is aptly applicable to the present case also.

Having regard to the facts and circumstances, petition is allowed. The respondents are directed to calculate arrears of D.A on family pension for the period 01.02.1992 to 19.01.1994 along with interest @ 9% per annum and disbursed the same to the petitioner within **eight weeks** from today, failing which petitioner will be entitled to cost of Rs.5,000/-.

At this stage, learned state counsel disputed the fact that petitioner had opted pursuant to Annexure-R-I. However, Annexure-R-I is dated nil. The written statement has been filed by one Sh. R.P Sharma, District Treasury Officer, Hoshiarpur, who is directed to be present in the Court on the next date of hearing, even if he is not in service to establish that Annexure-R-I is a true copy of the original and it has been prepared after perusal of Annexure-R-I. At the same time, the State is directed to produce the original of Annexure-R-I.

The learned state counsel submitted that tracing Sh. R.P. Sharma, the then District Treasury Officer, Hoshiarpur is impracticable, so also production of original Annexure R-1 at this distance of time.

In view of above submission, I have no other choice except allowing the petition as stated above.

16.09.2015*PA***(P.B BAJANTHRI)
JUDGE**