

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-2523-2009 (O&M)
Date of decision : 20.05.2015

Munni Bai

...Petitioner

V/S

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Devender Punia, Advocate
for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

This writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the action of respondents whereby retiral benefits i.e. family pension, all other ex-gratia benefits with interest w.e.f. 12.07.2004 were denied to the petitioner and for issuance of directions to the respondents to release these benefits along with all consequential benefits with interest.

It is contended that on 01.02.1965, Mr. Makhna Ram-husband of the petitioner had joined as Beldar on regular basis with respondent No.4 and superannuated on 31.01.2002. The husband of the petitioner expired on 12.07.2004 and till then he was not granted any pensionary or other ancillary benefits. For redressal of her grievance, the petitioner had moved a representation dated 14.05.2008 (Annexure

P-1) and served legal notice dated 01.11.2008 (Annexure P-2). In response to this, vide letter dated 08.12.2008 (Annexure P-4) the respondent No.4 informed the petitioner that since her husband was a habitual absentee, therefore, despite having been superannuated on attaining the age of retirement, neither her husband was eligible for pension, nor is she eligible for the benefits of family pension and that the husband of the petitioner had never applied to the respondents for regularisation of his absence period. But during the service period, the respondents neither opted to charge sheet the husband of the petitioner on the ground of the alleged absence nor after attaining age of superannuation and after allowing him to superannuate on attaining age of retirement, he was never issued any show cause notice, chargesheeted or subjected to any other disciplinary proceedings.

On the other hand, the learned State counsel states that as the husband of the petitioner remained willfully absent from 16.06.1991 onward till his due date of retirement on 31.01.2002, so his past service is liable to be forfeited as per Rule 3.17 (e) of C.S.R. Vol.- II Part-I.

I have heard the rival contentions of both the parties.

Learned State counsel was unable to controvert the fact that the husband of the petitioner had ever been issued any show cause notice, charge sheeted or any enquiry was initiated against him for the said alleged absence.

Keeping in view the fact that during the service period, the respondents neither opted to charge sheet the husband of the petitioner with regard to the alleged absence during service nor after attaining the age of super-annuation till his death and allowing him to super-annuate on attaining the age of retirement and that he had never been issued any show cause notice or chargesheet and that, too, without any enquiry or punishment etc. for the above said alleged absence, the petitioner is therefore entitled for the family pension of her deceased husband Sh.Makna Ram, Beldar along with arrears of family pension with effect from 12.07.2004 the date of death of her husband as per rules according to his qualifying service and the GPF, in the eventuality of non disbursement of GPF. However, the learned counsel for the petitioner does not press for the claim of interest on the delayed payment.

Accordingly, the present petition is partly allowed with a direction to the respondents to release the family pension as per rules w.e.f 12.07.2004 along with arrears of family pension and GPF, in the eventuality of non disbursement, to the petitioner. The petitioner will submit the complete papers for family pension and GPF etc. within fortnight from the receipt of certified copy of this judgment. The respondents shall release the family pension and GPF, within four months from the receipt of papers.

20.05.2015

ashok

ASHOK KUMAR
2015.05.26 19:04
I attest to the accuracy and
authenticity of this document

(JITENDRA CHAUHAN)
JUDGE