

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17242 of 2011 (O&M)

Date of Decision: **16.02.2015**

Neetu Yadav

...Petitioner

Versus

Life Insurance Corporation of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Rajvir Singh Sihag, Advocate for the petitioner.

Ms.Gaganpreet Kaur, Advocate for
Mr.B.R.Mahajan, Advocate for respondents No.1 and 2.

Mr.Paramjit Batta, Advocate for respondent no.3.

HARINDER SINGH SIDHU, J.

Roshan Lal Yadav, working as Peon with the respondent – Life Insurance Corporation died on 4.12.2004 while in service. Neetu Yadav – petitioner and Maya Devi – respondent No.3 are wife and mother of the deceased, respectively.

After the demise of Roshan Lal Yadav, relations between the petitioner and her in-laws became strained and she started living separately. She was allowed family pension w.e.f. 5.12.2004 under the LIC Pension Rules. Vide letter dated 27.9.2007, she was also given appointment on compassionate ground.

Now, pursuant to the decree dated 26.7.2011 passed by Additional Civil Judge (Senior Division), Ambala, vide which respondent no.3 has been held entitled to 1/3rd of the family pension, letter dated 12.8.2011 (Annexure P-2) has been issued to the

petitioner by the respondent Corporation requesting her to deposit an amount of Rs.1,00,670/- equivalent to 1/3rd of the family pension, which has been challenged by her by filing this petition.

Upon notice, the respondent – Corporation has filed reply stating that Maya Devi – respondent No.3 filed Civil Suit No.519 dated 15.10.2008 titled “Maya Devi vs. LIC of India” seeking a declaration that she is entitled to 1/3rd share in family pension on the ground that the petitioner was not looking after her. The said suit was decreed vide judgment and decree dated 26.7.2011 (Annexure R-2), operative part of which reads as under:-

“xxx xxx xxx The plaintiff is entitled to family pension to the extent of 1/3rd share and the defendants are also directed to release the family pension to the plaintiff from 4.12.2004, the date of death of Shri Roshan Lal Yadav to the extent of her share i.e. 1/3rd.”

It has been stated that in compliance with the said judgment and decree, the petitioner was informed vide the impugned order dated 12.8.2011 (Annexure P-2) to deposit a sum of Rs.1,00,670/- as 1/3rd share of family pension payable to Maya Devi w.e.f. 4.12.2004 to 31.7.2011 within 7 days, failing which said amount will be recovered from her salary and pension.

Learned counsel for the petitioner has contended that the petitioner was not made a party in the aforesaid suit and therefore, the aforesaid judgment and decree was not binding upon her.

Though, it is the admitted case of the parties that the petitioner was not a party to the suit, wherein, respondent – No.3 was held entitled to 1/3rd of the family pension, but it is the stand of the respondent – Corporation in the reply that the petitioner had appeared as a witness in the said case and, therefore, had knowledge of the pendency of the case. This fact is clearly reflected from the judgment itself and has not been denied by the Ld. Counsel for the petitioner.

Admittedly, neither the petitioner nor the respondent-Corporation have challenged the said judgment and decree which has consequently attained finality. It is binding on the respondent – Corporation.

In these circumstances, it is apparent that the letter/order dated 12.8.2011 (Annexure P-2) has been issued in compliance with the judgment and decree dated 26.7.2011 (Annexure R-1). The petitioner's action of challenging the order Annexure P-2 by filing this writ petition is nothing, but an attempt to circumvent the judgment and decree Annexure R-1 passed by the Civil Court which cannot be permitted. If she were aggrieved of the said judgment and decree it was open to her to challenge the same in accordance with law. This has not been done.

Accordingly, there is no merit in this petition and the same is dismissed.

February 16, 2015

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**(HARINDER SINGH SIDHU)
JUDGE**