

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

CWP No.25712 of 2015
Date of decision: 9.12.2015

Smt. Swaran Kaur

... Petitioner

Versus

The State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Amit Kaith, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner's late husband was an ex-serviceman who came to civil service in the Health Department, Punjab. He was a driver. He retired from service on January 31, 2001. On retirement he became eligible to two pensions, one from the Army whilst the other from the Punjab Government. He died on November 17, 2013. She has approached this Court for directions for grant of two family pensions. She relies on Central Government instructions dated January 7, 2013 which entitle a widow of an ex-serviceman who was drawing two pensions to be eligible for dual family pension. The petitioner is getting family pension from the Central Government as a widow of an ex-serviceman, but the Health Department, Punjab has not granted her independent family pension apparently on the premise that the widow is earning family pension from the Central Government. A copy of the notification has been placed at Annexure P-3 in the paper-book.

2. The petitioner has served a legal notice dated June 16, 2015 on the respondents claiming separate family pension from the Health Department/respondent No.2. But she has not been communicated the fate of her request. She has approached this Court for a mandamus directing the State to consider and decide her legal notice without unreasonable delay. It is past six months with the request lying in the office of the competent authority gathering dust.

3. In the circumstances, when the view of the State Government is not known on the subject matter, no useful purpose will be served in issuing notice of motion to the State and postponing rights to delay and instead the request of the petitioner is accepted and a direction is issued to the respondents to consider and decide the legal notice dated June 16, 2015 (Annexure P-4) within six weeks from the date of receipt of certified copy of this order. This direction is issued without expressing any opinion on the merits of the case since the rule position has not been examined. In case the petitioner's request is found genuine, then it would be neither necessary nor required to pass a speaking order. In case an adverse order is contemplated, then the petitioner would be heard and a speaking order passed disclosing reasons for the findings arrived at on the rules. It is expected that the State Government would notice and deal with the Central Government notification dated January 17, 2013. The final decision be communicated to the petitioner without delay and within a week of its passing. In case the pension is payable by the respondent State to the petitioner in addition to Army pension then it be started soon enough.

With the above observations and directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

9.12.2015
monika