

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

**CWP No.11802 of 2008
Date of decision:11.5.2016**

Paramjit Kaur

... Petitioner

Versus

The State of Punjab & ors.

... Respondents

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

Present: Mr. AK Walia, Advocate,
for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab.

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 was appointed as a Special Police Officer (SPO) in 1992. He served without break till he was made a regular Constable on April 1, 2004. He died in harness on October 3, 2007. The New Defined Pension Scheme came into force on January 1, 2004. But due to official rigmarole the same was actually implemented in the year 2008 retrospectively w.e.f. January 1, 2004. The widow of the Constable is the petitioner praying for a declaration that she is entitled to family pension on the death of her husband who by then was a regular hand. The claim has been denied by the respondents for the reason that the new Contributory Pension Scheme has come into force.

2. The disclaimer by the contesting respondent State is no longer tenable in view of the decision of this Court rendered in CWP

No.24472 of 2015 (Constable Rajesh Kumar & ors. v. State of Punjab &

anr.), decided on January 7, 2016 applying the law in Harbans Lal v. State of Punjab and ors. The review application No.143 of 2016 filed by the State of Punjab stands dismissed on May 9, 2016. Accordingly, the period of service spent as SPO from 1992 till April 1, 2004 will undoubtedly count towards service for pension and therefore, would be a pre-existing right of the husband of the petitioner coming down to her on death. The petitioner would be deemed to be entitled to the pecuniary benefits of past service rendered by her husband as SPO combined with his regular service as constable in the Punjab Police with a cascading right to grant of family pension in the hands of the petitioning widow.

3. For these reasons, this petition is allowed. The impugned order (Annex P-6) is quashed by certiorari. The petitioner is held entitled to family pension w.e.f. date of death of her husband. The arrears be accordingly calculated and paid to the petitioner within three months from the date of receipt of certified copy of this order. Thereafter, monthly family pension be given to her. The petitioner would also take the benefit of revised death-cum-retirement gratuity etc. However, the prayer for interest is declined as not tenable in the facts and the declaration issued for the first time after debate.

(RAJIV NARAIN RAINA)
JUDGE

11.5.2016
monika