

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 13269 of 2016

Date of Decision: 11.7.2016

The Union Territory of Chandigarh and another

....Petitioners.

Versus

Jaswinder Kaur and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? **YES**
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Vivek Chauhan, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. The petitioners through the instant petition filed under Articles 226/227 of the Constitution of India, have prayed for issuance of a writ in the nature of certiorari for quashing the judgment dated 14.12.2015 (Annexure P-1) passed by the Central Administrative Tribunal (in short “the Tribunal”).

2. A few facts necessary for adjudication of the present petition as narrated therein may be noticed. The husband of respondent No.1 had joined BEG Unit Roorkee as Spr having No. 1453846 on 25.5.1974. He was discharged on 1.7.1990 with pension and after his death on 16.3.2014,

family pension had been granted to respondent No.1. After discharge from

Army service, the husband of respondent No.1 joined Police Department, UT, Chandigarh as Constable on 10.9.1991 and served upto 31.3.2013, i.e. the age of superannuation. Respondent No.3 sanctioned the pension of Shri Sohan Singh, husband of respondent No.1 with a note that “there is no family/family member eligible for family pension. The claim of respondent No.1 was denied on the ground that her deceased husband had opted for military pension after his death and that respondent No.1 was eligible to draw only one pension. Accordingly, respondent No.1 filed Original Application No. 060/00548/UT/2015 before the Tribunal. The Tribunal vide judgment dated 14.12.2015 (Annexure P-1) allowed the said Original Application and held respondent No.1 entitled to the benefit of Circular dated 17.1.2013. The petitioners were directed to issue a revised PPO regarding Shri Sohan Singh, husband of respondent No.1 reflecting that the family pension would be payable to the family of said Shri Sohan Singh. Hence, the present writ petition.

3. After hearing learned counsel for the petitioners, we do not find any merit in the writ petition.

4. The Tribunal had noticed that the husband of respondent No.1 retired from military service and as such was getting pension on that count. After his death, respondent No.1 being his widow was getting the family pension. Further, the husband of respondent No.1 got re-employment with Chandigarh Administration and after rendering 22 years of service got superannuated on 31.3.2013 and was getting the pension on that account drawn from the Central Government funds. On 17.1.2013, Government of India had issued circular No. 504 for providing additional benefits to the families of ex-servicemen who were re-employed after military service. The

relevant portion thereof reads thus:-

“Consequent upon issue of Govt. of India, Ministry of Defence letter No. 01(05)/2010-D(Pen-Policy) dated 17.01.2013 (copy enclosed). The families of an Armed Forces Pensioners who get second re-employment in Central Civil Department or State Govt./PSUs/Autonomous bodies/Local Funds of Central/State Governments after getting retired/discharged from military service and were in receipt of ordinary family pension would be entitled to draw two family pension i.e. family pension (ordinary) from Military side in addition to family pension, if any, authorized by the re-employer for re-employed civil services subject to fulfillment of other prescribed conditions as hitherto.

5. Respondent No.1 being covered by the said circular was, therefore, entitled to the benefit of the said circular. Accordingly, the Tribunal directed the petitioners to issue a revised PPO regarding husband of respondent No.1 with the condition that the family pension would be payable to respondent No.1. The relevant findings recorded by the Tribunal read thus:-

“7. I have given careful consideration to the matter. The husband of the applicant retired from military service and was getting pension on this account and after his death, his widow is getting the family pension on account of the military service of her husband. After taking re-employment with the Chandigarh

Administration, the husband of the applicant superannuated on 31.3.2013 after 22 years of service with the Chandigarh Administration and was getting the pension on this account which would be drawn from the Central Government funds. The government of India issued Circular No. 504 dated 17.01.2013 intended to provide additional benefit to families of ex-servicemen who are re-employed after military service and Chandigarh Administration being a UT, would certainly be covered by this Circular dated 17.1.2013 issued by the government of India especially since family pension will be drawn from the Central Government funds. The Punjab Government can have nothing to do in this matter. The applicant is, therefore, held entitled to the benefit of the Circular of 17.1.2013, as the widow of an ex-serviceman who was re-employed with the Chandigarh Administration. Hence, this OA is allowed.

6. Learned counsel for the petitioner could not show that the order passed by the Tribunal was illegal or unsustainable in the eyes of law warranting interference by this Court. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

July 11, 2016
gbs

(RAMENDRA JAIN)
JUDGE