

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

**CWP No.20944 of 2012 (O&M)  
Date of decision : November 11, 2016**

**Perminder Sidhu**

**..... Petitioner**

**Versus**

**State of Punjab and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:-** Mr. Mannu K. Bhandari, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

Mr. Pankaj Maini, Advocate for respondent Nos.4 to 6.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

**KULDIP SINGH J. (ORAL)**

Ramesh Kumar was working as Assistant Sub Inspector under the control of Senior Superintendent of Police (in short 'the SSP'), S.A.S. Nagar, Mohali. Ramesh Kumar was previously married with one Seema Sood, who died on 17.05.1999. Respondent Nos.4 to 6 i.e. Sanjiv Sood, Deepali Sood and Deepika Sood, are the children from the first marriage of Ramesh Kumar with Seema Sood. Thereafter, Ramesh Kumar married with petitioner Perminder Sidhu on 11.07.2004. It appears that Ramesh Kumar was not having good relations with his children from first marriage, therefore, it is claimed that he is stated to have disowned respondent Nos.4 to 6 by way of publishing a public notice in the newspaper 'The Hindustan Times' dated 26.05.2005. He was also having litigation with his son. At the

time of her marriage with Ramesh Kumar, the petitioner had one daughter, namely Srishti Singh from her first marriage. Ramesh Kumar died on 11.12.2011. Petitioner claimed that she was not paid the retiral benefits of the deceased.

The State in its reply has taken the stand that a complaint was received from respondent No.4 Sanjiv Sood son of Ramesh Kumar from his first marriage to the effect that the petitioner had murdered SI Ramesh Kumar. Therefore, his legal heirs from his first marriage are entitled to the retiral benefits.

It is stated that SI Ramesh Kumar posted as Head Clerk in the office of SSP, S.A.S. Nagar, Mohali, expired on intervening night of 10/11.12.2011 in his house. The proceedings under Section 174 Cr.P.C. were carried out at the instance of Perminder Sidhu. As per report of chemical examiner, the cause of death was chlorocompound group of insecticides poisoning. Therefore, son of Ramesh Kumar from the first marriage made a complaint on 04.04.2012 to SSP, S.A.S. Nagar, Mohali that his father was maltreated and harassed by Perminder Kaur, petitioner and that he was poisoned. On inquiry, no evidence came to the light to substantiate the allegations levelled by the son of deceased from first marriage. Consequently, the case of retiral benefits was entrusted to SP (Hq.), S.A.S. Nagar, who recommended to take legal opinion regarding release of retiral benefits of the deceased Ramesh Kumar. After getting the legal opinion on 14.06.2013, it was recommended that pension and other benefits be released to Perminder Kaur and un-married daughter from the first marriage, namely, Deepika Sood.

It comes out that initially the present petition was filed against respondent Nos.1 to 3. Respondent Nos.4 to 6 were made party on filing of their application, being allowed by this Court.

Learned counsel for respondent Nos.4 to 6 claimed that deceased was having another wife Jagjit Pal Kaur, prior to the petitioner. Therefore, the petitioner is not entitled to the retiral benefits. It was stated that Deepika Sood being the dependent of her father is entitled to the retiral benefits.

It further comes out that pending the present petition, the State is stated to have released the family pension vide Annexure A-1 to the extent of ½ share to the petitioner and other ½ share to Deepika Sood, till the date of her marriage i.e. 29.09.2012. The other retiral benefits have also been released in equal shares.

Now, the claim of the petitioner surviving for consideration is as to whether after the marriage of Deepika Sood on 29.09.2012, her 50% share of family pension is to be paid to the petitioner or it will be ceased to be paid to any of the legal heirs. So far as the allegations regarding the second wife Jagjit Pal Kaur is concerned, she has not come to the court to make any claim. On the basis of said allegations, the grant of family pension cannot be stopped to Perminder Kaur, petitioner, particularly, when her name was mentioned as nominee by the deceased-employee.

A perusal of the Rule 3 of the Punjab Civil Services Rules, Volume-II, Chapter 6, lays down the bar regarding pension, which is as under:

*“(3) The Pension will be admissible:-*

*(a) in the case of a widow or widower up to the date of death or remarriage whichever is earlier.*

*(b) [In the case of son and unmarried daughter until he or she attains age of twenty-five years or till he or she starts earning his/her livelihood, whichever is earlier.]*

*Provided that if the son or daughter of a Government employee is suffering form any disorder or disability of mind or is physically crippled or disabled so as to rendered him or her unable to earn a living even after attaining the age of [Twenty-five years] the family pension shall be payable to such son or daughter for the life subject, to the following condition, namely:-*

*(i) [If such son or daughter is one among two or more children of the Government employee, the family pension shall be initially payable to the minor children in the order set out in the sub rule (3) until the last child attains the age of twenty-five years of until he or she becomes ineligible for family pension under clause (b) whichever is earlier and thereafter the family pension shall be resumed in favour of the son or daughter suffering form disorder or disability of mind or who is physically crippled or disabled and shall be payable to him or her as the case may be, for life.]*

*(ii) If there are more than one such son or daughter suffering form disorder or disability of mind or who is physically crippled or disabled, the family pension shall be paid in the following order, namely:-*

*(a) firstly to there son, and if there are more than one son, the younger of them will get the family pension only after the life time of the elder.*

*(b) secondly, to the daughter, and if there are more than one daughter, the younger of them will get the*

*family pension only after the life time of the elder.*

*(iii) the family pension shall be paid to such son or daughter through the guardian as if he or she were a minor.*

*(iv) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such a nature as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certification obtained from a medical officer not below the rank of a Civil Surgeon setting out as far as possible, the exact mental or physical condition of the child.*

*(iv) the person receiving the family pension as guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of a Civil Surgeon to the effect that he or she continued to suffer disorder or disability of mind or continues to be physically crippled or disabled.*

*Explanations, --(a) Only that disability which manifests itself before the retirement or death of the Government employee while in service shall be taken into account for the purpose for the purpose of grant of family pension under this sub – rule;*

*( b ) A daughter shall become ineligible for family pension under this sub – rule from the date she gets married .*

*( c ) the family pension payable to such a son or daughter shall be stopped if he or she starts earning his/ her livelihood .*

*( d ) In such cases it shall be the duty of the guardian to furnish a certificate to the Treasury or Bank , as the case may be every month that (i) he or she has not*

*started earning his/her livelihood ; ( ii ) in case of daughter , that she has not yet married .*

*Note 1.- When a Government employee is survived by more than one widow, the pension will be paid to them in equal shares . On the death of a widow , her share of the pension will become payable to her eligible minor child , if at the time of her death , a widow leaves no eligible minor child , the payment of her share of the pension will cease .*

*Note 2.- Where a Government employee is survived by a widow but has left behind an eligible minor child from another wife , the eligible minor child will be paid the share of pension which the mother would have received if she had been alive at the time of the death of the Government employee .*

*Note 3. – Except as provided in Note 1, pension awarded under this scheme will not be payable to more than one member of the family of a Government employee at the time . It will first be admissible to the widow or widower and thereafter to the eligible minor children .*

*Note 4.- In the event of remarriage or death of the widow or widower , the pension will be granted to the minor children including the posthumous child through their natural guardian , if any otherwise through their defacto guardian on production of indemnity bond in Form 'A' . In disputed cases , however , payment will be made through a legal guardian ( i.e. guardian , appointed by a court of law).*

*Note 5.- The ad hoc increase in pension will not be admissible on the family pension granted under scheme .*

In the present case, Note No.2 is applicable in this case. The minor daughter of the deceased-employee from the first marriage was alive and 50% share of the pension has been given to the petitioner and another 50% has been given to the minor daughter from the first marriage till the date of her marriage.

The question would arise whether the 50% share of the family pension granted to the minor daughter of the deceased-employee from his first marriage will lapse after her marriage or it will revert to the surviving widow of the deceased-employee, who was otherwise getting other 50% of the family pension.

The matter was examined by the Division Bench of this Court in case of “*Ram Dulari vs State of Haryana*”, 2010(1)SLR 403, wherein it was held that in such circumstances, 50% share of the married daughter will revert to the surviving wife of the deceased-employee.

It being so, in the present case, 50% share of Deepika Sood, who got married on 29.09.2012, will revert to Perminder Kaur, petitioner and now, she will be entitled to full pension.

Learned counsel for the petitioner also claims interest on the delayed payment.

I am of the view that in the present case, the State is not at fault as the present writ petition was going on between the petitioner and the LRs of her husband from his first marriage, who claimed that one Jagjit Pal Kaur, the second wife of the deceased-employee is also alive. It being so, the petitioner is not entitled to any interest on the delayed payment. The additional 50% share of the family pension after 29.09.2012 shall be

released to the petitioner within three months from the date of receipt of the copy of the judgment and from the said date, she will be entitled to full pension.

As such, the present petition is allowed.

November 11, 2016

(KULDIP SINGH)  
JUDGE

sarita

Whether speaking / reasoned                      Yes

Whether Reportable:                                      No