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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18276 of 2013 (O&M)
Date of Decision: 16.09.2016

MUKHTIAR SINGH ***… Petitioner***

VS.

STATE OF PUNJAB AND OTHERS ***..Respondents***

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.K. Arora, Advocate,
for the petitioner.

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

Mr. A.K. Ahuja, Advocate,
for the respondent No. 6.

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KULDIP SINGH, J. (Oral)

Brief facts of the case are that Parkash Kaur wife of the petitioner-Mukhtiar Singh was working on the post of Matron at Civil Hospital, Kapurthala, Department of Health and Family Welfare, Punjab. She expired on 27.08.1991 and consequently the petitioner being the husband of the deceased employee was getting family pension. As a result of the report of the 5th Pay Commission, the Government issued notification dated 27.05.2009 *(Annexure P-2)* whereby the benefit of pay revision was granted to the pensioners and the family pensioners. Subsequently, the Government issued the notification dated 22.02.2010 *(Annexure P-3),* whereby regarding family pension, following instructions were issued: -

"XXX

The Governor of Punjab is pleased to decide further that the benefit of fixation of revised pension envisaged in para 4.2 of the *aforesaid letter will be available for fixation of family pension also subject to the condition that the revised family pension, in no case, shall be lower than thirty percent of the initial pay shown in column 8 of the Schedule of the Punjab Civil Services (Revised Pay), Rules, 2009, against relevant Pay Band and Grade Pay corresponding to the pre-revised scale of pay in which the pensioner/deceased employee had last worked.*

X X X X"

It is stated that, pay of the deceased wife of the petitioner was accordingly fixed from the pre-revised scale of ₹6400/- - ₹10640/- to ₹10300/- - ₹34800/- with the grade pay of ₹4200/- and the initial pay was fixed as ₹16290/- as per the conversion table. Consequently, the Government further issued notification dated 20.06.2011 *(Annexure P-4)* whereby pay scale of Nursing Staff in the Department of Health & Family Welfare, Punjab were further revised w.e.f. 01.10.2011 prospectively and the pay of the wife of the petitioner was fixed at ₹15600/- - ₹39100/- with the grade pay of ₹5400/- and the initial pay fixed at ₹21000/-. In terms of said fixation of pay, the pension was revised to 30% of the same and fixed at ₹6300/-. However, subsequently, without passing any order and without hearing the petitioner the same was reduced to ₹4,887/-.

The respondents No. 1 to 4 have taken the plea in the written statement that the revised pay scale was applicable only to the existing employees and not to the ex-employees.

I have heard learned counsel for both the parties and carefully gone through the contents of the case file.

On behalf of the State Government, it is stated that no orders were issued for reducing the family pension and that the State Bank of Patiala has done the same at its own level. Learned counsel for the State Bank of Patiala has argued that the Bank pays the family pension and subsequently claims the reimbursement of the same from the Government and the Treasury Officer had raised an oral objection and accordingly, the pension was reduced.

I am of the view that the approach of the Bank is wholly illegal and unjustified. The bank could not reduce the pension without any order from the Government. The mere fact that the Treasury Officer orally raised some objection, is not tenable. If the treasury officer wanted to raise some objection it should have been in writing stating that on which ground the same is raised.

Letter dated 20.06.2011*(Annexure P-4)* makes reference to the Punjab Government notification dated 27.05.2009 *(Annexure P-2)* vide which the revision of pay was done and it was stated that the pay-scale of the Nursing staff stands "further revised". It goes to show that it was a further revision effective from the date mentioned in the said notification. Therefore, the family pension could not be reduced even after the department was of the view that family pension is to be re-fixed, the same could be done only after issuing a notice to the petitioner, hearing him and then passing a written/speaking order which was not done in this case.

Accordingly, writ of certiorari is issued that the reduction in the family pension to the petitioner from ₹ 6,300/- to ₹ 4,887/- w.e.f. 01.09.2011 is illegal and is hereby set aside. The petitioner shall be paid family pension @ ₹6,300/-. Thereafter, the arrears be paid to the petitioner alongwith interest @ 9% per annum. However, respondents are at liberty to fix the responsibility of the officer/official who had wrongly reduced the family pension of the petitioner without any written order from any authority and recover the interest from him. Needful be done within two months from the date of receipt of the certified copy of this order.

In view of the above, the petition stands allowed.

September 16, 2016 **[KULDIP SINGH]**
Suresh Kumar **JUDGE**

	✓		
Whether speaking / reasoned	***Yes***	/	***No***
			✓
Whether Reportable	***Yes***	/	***No***