

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

**CWP No. 16918 of 2015
Date of Decision:- 04.11.2016**

Ranju

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sukhdev Kamboj, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

DAYA CHAUDHARY, J. (Oral)

The prayer in the present petition is for issuance of a direction to the respondents to grant family pension to the petitioner on account of death of her husband (deceased Avtar Singh Constable) while he was on duty.

Briefly, the facts of the case as mentioned in the writ petition, are that husband of the petitioner was appointed as Special Police Officer (SPO) in the year 1996. His services were regularized as Constable on 17.1.2009. He died in a road accident on 3.10.2014 and FIR No. 113 dated 3.10.2014 was also registered under Sections 279, 304-A and 427 IPC at Police Station, Kartarpur, District Jalandhar. He was having two school going children along with wife and was stated to be the only bread winner

of the family. After his death, there was no other source of income. The mother-in-law and father-in-law of the petitioner were also residing with the deceased-husband and were dependent on him. Petitioner made representation for grant of family pension but no action was taken thereupon and the request made by the petitioner being wife of deceased was not accepted. Thereafter, the present petition was filed with the prayer that the petitioner being wife of deceased is entitled for family pension after the death of her husband Avtar Singh.

Learned counsel for the petitioner submits that the case of the petitioner is squarely covered by decision in CWP No. 11802 of 2008 titled as **Paramjit Kaur vs. The State of Punjab and others**, decided on 11.5.2016. In this case also, the husband of the petitioner was working as Special Police Officer and thereafter he was made regular on the post of Constable. He also died while in service but family pension was not granted to widow of the deceased. Learned counsel also submits that the petitioner would be satisfied if petitioner's case is considered in view of said judgment.

In response to notice of motion, reply has been filed which is on record. Certain arguments have been raised by learned counsel for the respondent-State but he has not disputed the judgment passed in **Paramjit Kaur's case** (supra).

Heard arguments of learned counsel for the petitioner as well as learned counsel for the respondent-State. I have also perused the judgment passed in **Paramjit Kaur's case** (supra). Facts of that case are not disputed. In the said judgment, the decision of this Court rendered in

CWP No. 24472 of 2015 titled as **Constable Rajesh Kumar and others vs. State of Punjab and another**, decided on 7.1.2016 has been relied upon by applying the law as laid down in case **Harbans Lal vs. State of Punjab and others**. The review application filed by respondents-State was also dismissed in that case on 9.5.2016. The service period spent as SPO from 1992 till April 1, 2004 was ordered to be counted for the purpose of pension. The relevant paras No. 2 and 3 of said judgment are reproduced as under:-

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.

Undisputedly, the case of the petitioner is squarely covered by decision of **Paramjit Kaur's case** (supra) wherein judgments rendered in **Rajesh Kumar's** and **Harbans Lal's cases** (supra) have been relied upon.

Accordingly, the service rendered by the husband of the petitioner as SPO is ordered to be counted for the purpose of pension and petitioner is held entitled for family pension with effect from the date of death of her husband Avtar Singh i.e. 3.10.2014. The petition is, therefore, allowed and respondents are directed to grant family pension to the petitioner from the date of death of her husband along with arrears within a period of three months from the date of receipt of certified copy of the order. The petitioner would also be entitled for benefit of revised death-cum-retirement-gratuity etc.

November 04, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes