

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

**CWP No.20374 of 2014 (O&M)
Date of decision : September 16, 2016**

Kuljit Kaur aliaa Kuldeep Kaur

..... Petitioner

Versus

Punjab State Power Corporation Ltd. and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. V.K. Shukla, Advocate for the petitioner.

Mr. Y.P. Khullar, Advocate for the respondents.

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)

Gurcharan Singh, an Ex. army man was employed as peon with the respondents-Corporation in the year 1984. He died in harness on 15.09.2007. His wife Kuljit Kaur @ Kuldeep Kaur has approached this Court for issuance of appropriate writ for granting special pension, family pension and ex-gratia grant, in terms of Policy dated 23.11.2004 (Annexure P-1).

The reply of the respondent-Corporation shows that ex-gratia grant has been released to the petitioner, which is not disputed by the petitioner.

The sole question arising out for consideration is as to whether the petitioner is entitled to family pension and special pension, which have been denied by the respondents-Corporation on the ground that the

petitioner is already getting family pension from the army authorities. As per stand taken by the respondents-Corporation in the written statement, no objection certificate was to be obtained by the petitioner from the army authorities.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The Policy of the respondents-Corporation regarding special family pension and family pension is laid down in circular dated 23.11.2004 (Annexure P-1). The relevant extract of the same is reproduced as under:

“(ii) And in addition to grant of Solatium, as hereinbefore provided, a special pension equal to the last pay (basic) drawn along with dearness relief sanctioned from time to time, shall be granted till the date of his/her superannuation and shall be payable to the legal heirs as defined by the Pb. Govt., Deptt. of Finance (Finance Personnel – III Branch) notification 1/7/98-1 FP-3/8709 dated 16.7.98 adopted by the Board vide Secretary/Fin. Circular No.36/98 dated 4.9.98 as amended from time to time. Thereafter, the pension will be admissible in accordance with the normal family pension rules. In case death occurred after 1.1.96, the basic pay shall be converted as Special Pension however if death had occurred prior to 1.1.96, last basic pay drawn shall be notionally fixed as on 1.1.96 in terms of Pb. Govt. Department of Finance Notification No.1/7/98/-1 FPIII/8825 dated 21st July/18th August, 1998 adopted vide Secy. /Finance Section Circular No. 36/98 dated 4.9.98. The arrears shall be payable (i) w.e.f. 10.4.02, (the date from which the Board stopped giving priority employment) or (ii) the date of death whichever is later, on the basis of decision taken by the O/o of the Secretary/Eng-II, PSEB, Patiala.”

The abovenoted Policy makes it clear that special family pension and the family pension are to be granted. In the said Policy, no exception has been made that in case of ex. army man, the family pension is to be denied. The deceased has rendered qualifying service before the respondent-Corporation also and if there is nothing contrary in the rules to deny the family pension to the family members of the deceased ex. army man, the same cannot be denied by giving its own interpretation to the rules and necessitating no objection certificate from the army authorities, which is not required as per rules under the aforesaid policy.

Learned counsel for the respondent states that there is no other Policy of the respondent-Corporation except Annexure P-1.

This Court in CWP No.553 of 2015 titled as ***“Kaushalaya Rani (deceased) through LRs vs Punjab State Power Corporation and others”***, decided on 08.08.2016, has taken the view that second family pension to the family members of ex. army man is admissible.

In view of the matter, a writ of mandamus is issued, directing the respondent-Corporation to release special family pension and family pension to the petitioner, in terms of the Policy (Annexure P-1).

Accordingly, the present writ petition is allowed.

Since, the family pension and special family pension were wrongly denied, therefore, the petitioner is entitled to 9% interest per annum starting three months from the date of death of ex army man till payment.

(KULDIP SINGH)
JUDGE

September 16, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes