

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 24992 of 2015 (O&M)

Date of Decision: 27.09.2016

PARAMJIT SOOD

... Petitioner

VS.

STATE OF PUNJAB AND OTHERS.

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Raman Goklaney, Advocate,
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

KULDIP SINGH, J. (Oral)

By way of this writ petition filed under Articles 226/227 of the Constitution of India is for issuance of writ of mandamus/certiorari directing the respondent for releasing full family pension to the petitioner instead of 50% of family pension after the death of Sneh Lata-wife of the petitioner.

Brief facts of the present case are that petitioner-Paramjit Sood, after the death of his wife Kamla, married Sneh Lata (since deceased) on 02.10.1988, whose marriage with her first husband Purshotam Lal was dissolved by the decree of divorce passed by the learned Additional District Judge, Jalandhar in HMA case no. 48 of 1986 on 21.02.1987.

Sneh Lata retired on 30.04.2001 as JBT Teacher from the Education Department and later on expired on 01.10.2012. The petitioner being husband of Sneh Lata, has been allowed 50% of the family pension on the basis of a letter dated 24.10.2006 (*Annexure P-4*) but the petitioner claim the full family pension.

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The State in the reply has maintained that in the pension papers, the name of the petitioner is not mentioned and only Gulshan Lal (nephew) aged 45 years, is mentioned. It is stated that after seeking divorce from Purshotam Lal, Sneh Lata had remarried to Paramjit Sood, therefore, this is the second marriage and in terms of letter dated 24.10.2006 (*Annexure P-4*) 50% of family pension is authorized to the petitioner.

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

Rule 6.17 of the Punjab Civil Services Rules, Volume-II alongwith notes, which regulate the pension is reproduced below: -

"6.17:- The provisions of this rule shall apply:-

- (a) to a regular employee of Punjab Government in a pensionable establishment on or after the 1st July, 1964 ; and*
- (b) to a Punjab Government employee who was in service on the 30th June, 1964 and came to be governed by the provisions of Family Pension Scheme, 1964, for Punjab Government employees.*

Note.— *In the case of a Government employee who retired from service or died at any time before the publication of this rule, the provisions of Family Pension Scheme , 1964 as in force on the date that Government employee retired or died shall apply."*

The definition of the family in Sub Rules 3 and 4 of the said Rule 6.17 along with their respective notes are reproduced as under:

- (3) "Family" for purposes of this Scheme will include the following relatives of the Government employee:—***
 - (a) Wife in the case of a male Government employee and husband in the case of a female Government employee;*
 - (b) A judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery; and*
 - (c) Sons upto the age of twenty-five years;*

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- (d) *Daughters upto the age of twenty-five years irrespective of their marriage but unmarried daughters shall be included in the family irrespective of their age; and*
- (e) *Parents who were wholly dependent on the Government employee, when he/she was alive provided the deceased employee had left behind neither a widow nor a child.*

Note 1.– (c) and (d) will include children adopted legally before retirement.

Note 2.– Marriage after retirement shall be recognized for purposes of this Scheme.

(4) The pension will be admissible–

- (a) *in the case of widow or widower up to the date of death or remarriage whichever is earlier;*
- (b) *in the case of a son until he attains the age of twenty-five years or till he starts earning his livelihood, whichever is earlier; and*
- (c) *to a daughter upto the age of twenty-five years irrespective of her marriage. However, an unmarried daughter shall be entitled to family pension irrespective of her age. But, family pension shall not be admissible to a daughter, if she starts earning her livelihood:*

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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 same time. It will first be admissible to the widow or widower and thereafter to the eligible minor children.

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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

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through their de facto 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).”

The definition of family in Sub Rule 3 of Rule 6.17 shows that the family means wife in case of male government employee; and husband in case of female Government employee. Thereafter, there is a mention regarding judicially separated husband or wife; sons and unmarried daughters.

Sub Rule 4 of the Rule 6.17 makes it clear that the pension is admissible in the case of widow or widower up to the date of death or remarriage whichever is earlier. Note 1 of Rule 6.17 (4) provides for the cases where the employee has left with more than one widow.

In none of the Rules, it is laid down that in case a female employee remarried, her husband is entitled to only 50% of pension. Letter (Annexure P-3 and 12) shows that 50% family pension has been allowed to the petitioner stating that the petitioner is the second husband of the deceased Sneha Lata. The relevant extract of the letter dated 24.10.2006 (*Annexure P4*) is reproduced as under :-

“Subject: Family Pension in the case of two wives – Clarification thereof

Sir,

I am directed to refer to your letter No. Pen/Clari.Vol.VIII/05-06/7900 dated 10.10.2005 on the subject noted above and to state that vide Note 1 and 2 below Rule 6.17 (4) of Punjab C.S.R. Vol. II, it has been clearly mentioned that on the death of a widow, her share of 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. In this case there are two major sons from the first wife. As they are more than 25 years of age, they are not eligible for share of family pension and their share will cease. The surviving widow is eligible for only ½ share of the family pension.”

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The heading of the letter itself shows that it pertained to a case of family pension in case of two wives clarification was also issued in this regard. The case of husband in case of remarriage of female employee is not covered under the said letter. The petitioner has even produced the certificate issued by the Collector, U.T., Chandigarh, wherein the petitioner has been declared to be the legal heir of the deceased being her husband. Nephew of the deceased employee-Sneh Lata is no body to claim family pension under the rules even if his name is mentioned in the service records.

In view of the foregoing discussion, the impugned order is set aside and writ of mandamus is issued directing the respondents to grant full pension as per Rules to the petitioner from the date of the death of Sneh Lata i.e. 01.10.2012.

September 27, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

<i>Whether speaking / reasoned</i>	✓ <i>Yes / No</i>
<i>Whether Reportable</i>	✓ <i>Yes / No</i>