

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4341 of 2014 (O&M)

Kulwinder Kaur

... Petitioner

Versus

State of Punjab & others

... Respondents

CWP No.22313 of 2014

Sukhwinder Singh & another

... Petitioners

Versus

State of Punjab & others

... Respondents

Decided on : 21.04.2016

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Rakesh Kumar, Advocate, for the petitioners.

Mr.Anshul Gupta, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

CM-2515-2015

Application for placing on record the death certificate of Natha Singh as Annexure P8, is allowed. Same is taken on record, subject to just exceptions. Office to tag the same at appropriate place.

Main cases

This judgment shall dispose of CWP-4341 & 22313-2014, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-4341-2014 titled *Kulwinder Kaur Vs. State of Punjab & others*.

Petitioner, in the present writ petition, claims the benefit of the retiral dues of Bhajan Singh who was serving as Constable with the Punjab Armed Police. Kulwinder Kaur (petitioner in CWP-4341-2014) alleges to be the second wife of the deceased employee-Bhajan Singh, having married him on 10.10.1992, after the death of the first wife, Kashmir Kaur on 25.07.1991. Sukhwinder Singh and Simarjit Kaur (petitioners in CWP-22313-2014) are the children from the second wedlock with Kulwinder Kaur, having been born on 23.10.1993 and 23.03.1999, respectively, whereas one Rajwinder Singh, who is not party to the present lis, is the son from the first wife, namely, Kashmir Kaur.

It is not disputed that the deceased employee took voluntary retirement on 31.05.2002 and thereafter, was murdered on 09.07.2002. It is the case of the State that at that point of time, he was living with one Surinder Kaur and an FIR No.109 dated 11.07.2002 under Section 302 etc. IPC was lodged at Police Station Bholath District Kapurthala against the said person and others. Conviction was also recorded against the other accused whereas Surinder Kaur was exonerated, vide judgment dated 28.04.2005 by the Sessions Judge, Kapurthala. The petitioners, thus, seek the retiral benefits on account of being the legal heirs and entitled to family pension under the Punjab Civil Services Rules.

State, on the other hand, has taken the plea that the

names of Kashmir Kaur and son-Rajwinder Singh were never entered by the employee in the service record and he had only entered the names of the present petitioners, under his own signatures. He had given the joint photograph of the deceased-employee and Surinder Kaur, with whom, he was having illicit relation. It is submitted that pension had been sanctioned in favour of Kulwinder Kaur. It is further submitted that the pension of Bhajan Singh had been sanctioned and he had received some monetary pensionary benefits after his voluntary retirement. He had taken the money to the house where he was living with Surinder Kaur but the family of Surinder Kaur become greedy due to which the employee had been murdered. Rajwinder Singh, son of the first wife had got a sum of Rs.1,12,269/- and a sum of Rs.2,74,286/- as G.P.F. The petitioners had approached the department only on 19.07.2004 for getting the family pension and efforts were made to divide the family pension but of no avail. It has further been averred that Kulwinder Kaur re-married on February, 2003 and proof of Ration Card dated 16.02.2005 (Annexure R2) and Identity Card dated 20.10.2005 (Annexure R3) were placed on record, to submit that she was not entitled to pension, in view of Rule 8.35 of the Punjab Civil Services Rule Note No.2. It has further been mentioned that on 21.07.2002, pension of Rs.1800/- per month had been sanctioned but petitioner-Kulwinder Kaur had never approached to draw her

pension on account of her re-marriage.

Counsel for the petitioner, on the other hand, submits that even if it is taken to be true that she had married Natha Singh but he had expired on 03.10.2014 and has placed on record the death certificate as Annexure P8. It is submitted that as per Note No.2, which has been relied upon by the State Counsel, on the death of the husband, she is entitled for restoration of the pension. It is further submitted that even otherwise, the petitioners (in CWP-22313-2014), who were born on 23.10.1993 and 23.03.1999, would be entitled for family pension on account of the death of the employee on 09.07.2002, on their own right.

From the stand taken by the respondents, it would be clear that qua Kulwinder Kaur, at least, disputed questions are arising as *prima facie* enough evidence has been placed on record to show that she had married Natha Singh, as per the Ration Card and Identity Card, placed on record.

Faced with this situation, counsel for the petitioners submits that after the death of Natha Singh, she is entitled for restoration of the pension and he does not stake his claim for the pension for the period that she had a subsisting marriage with Natha Singh. It is, however, submitted that the children would be entitled to the family pension, which the respondents have not taken into consideration.

Accordingly, this Court is of the opinion that the request

made by counsel for the petitioners is genuine, to this extent. Respondent No.2 is, accordingly, directed to decide the entitlement of the children, who are petitioners in CWP-22313-2014, regarding the family pension, on account of the death of the employee, from 09.07.2002 onwards. Similarly, the said respondent shall also decide the right of the petitioner, Kulwinder Kaur for family pension along with them, w.e.f. 04.10.2014. It will be open to the respondents to verify the fact of the death of Natha Singh. The said exercise be completed within a period of 2 months from the receipt of a certified copy of this order. In case the petitioners are found entitled for the said relief, the amounts due be paid to them, as per their share, within a period of 1 month, thereafter. The share which is payable to petitioner No.2-Simarjit Kaur (in CWP-22313-2014), who is a minor, will also be taken into consideration by the said respondent, as the brother would not be the natural guardian and the interest of the minor will necessarily have to be safeguarded through the mother. In case any adverse order is to be passed, the petitioners be given adequate opportunity of representation and thereafter, speaking order can be passed and conveyed to them.

With the above directions, the present writ petitions are disposed of.

APRIL 21, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE