

RSA No. 5070 of 2012 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 5070 of 2012 (O&M)
Date of Decision : 02.05.2016

The State of Punjab and others

...Appellants

Versus

Natha Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. Neeraj Yadav, A.A.G., Punjab.

Mr. G.S. Sandhu, Advocate for the respondent.

P.B. Bajanthri, J.(Oral)

The petitioner has questioned the validity of the order of the Trial court dated 19.08.2011 and judgment dated 08.06.2012 of District Judge, Faridkot. Short question for consideration in this appeal is whether the respondent, father of deceased Darshan Singh Constable is entitled to family pension or not?

Brief facts of the case are that Late Darshan Singh (son of the respondent herein) was appointed as Constable in Police Department on 19.11.1989. He died on 25.10.1992. He was a bachelor, therefore, respondent Natha Singh, who is father of the deceased, approached the Court seeking for

extension of family pension benefit to him. The trial Court held that respondent-Natha Singh is entitled to family pension. Accordingly, a direction was issued to the appellants to release the family pension to the respondent Natha Singh along with interest @ 12% per annum and so on. Feeling aggrieved by the decision of the trial Court, the appellants have preferred an appeal, which was dismissed by the appellate Court vide order dated 08.06.2012. Hence, this regular second appeal.

Learned counsel for the appellants submitted that as on the date of death of late Darshan Singh i.e. 25.10.1992, the Punjab Civil Services Rules under definition of family, parents of employee were not included vide Rule 6.17 (Vol.II). In the absence of any provision for extending family pension as on 25.10.1992, the date on which, late Darshan Singh died, respondent Natha Singh is not entitled to family pension. In support of his contention, learned State counsel relied upon a decision of this Court in *Smt. Tej Kaur and another Vs. State of Punjab and others*, 2005(2) S.C.T. 134, wherein, in para 12 of the said Judgment, it has been held as under :-

“12. The judgments of the Hon'ble Supreme Court are applicable to the case in hand inasmuch as the son of the petitioners died in harness on 18.1.1994 and at the time of his demise the Family Pension Scheme as contained in Rule 6.17 of the Rules was applicable. The definition of “Family” in Rule 6.17 (3) thereof does not include the parents of the deceased. The subsequent amendment to the Rules

vide Circular dated 16.07.1998 is effective from 01.01.1996 which in any case is not applicable to the case in hand."

On the other hand, learned counsel for the respondent pointed out that under the family definition, for the first time, the parents were included only on 16.07.1998 effective w.e.f. 01.01.1996 instead of using the word inserted. Therefore, it should be read as inserted and to extend family pension benefits. He has relied upon a decision of this Court in ***'National Insurance Company Ltd. and others Vs. Smt. Gurdev Kaur and another***, 2007(1) SCT 801.

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

Cited decision by the respondent is not applicable to the present case.

For the purpose of respondent's ineligible for family pension, the Punjab Civil Services Rules do not provide as his claim was prior to 16.07.1998. The trial Court had erred in not noticing the provision of Rule 6.17 (Vol.II) and its application. Accordingly, decisions of the trial Court and appellate Court are set-aside.

Regular Second appeal is allowed in above terms.

May 02, 2016.
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(P.B. BAJANTHRI)
JUDGE