

RSA No. 1378 of 2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 1378 of 2015 (O&M)
Date of Decision : 09.05.2016

Gurjeet Kaur ...Appellant

Versus

Manpreet Kaur and others ...Respondents

2)

RSA No. 1386 of 2015

Kamaljit Singh ...Appellant

Versus

Manpreet Kaur and others ...Respondents

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. Kapil Kakkar, Advocate for the appellant(s).

Mr. Parminder Singh-I, Advocate
for respondent No. 1.

Mr. K.D.S. Sidhu, Advocate
for respondents No. 2 and 3.

P.B. Bajanthri, J.(Oral)

This order shall dispose of RSA No. 1378 of 2015
titled as '**Gurjeet Kaur Vs. Manpreet Kaur and others**' and RSA
No. 1386 of 2015 titled as '**Kamaljit Singh Vs. Manpreet Kaur**

and others' as the issue involved in these appeals is common. For the sake of convenience, facts are being taken from RSA No. 1378 of 2015 titled as '**Gurjeet Kaur Vs. Manpreet Kaur and others'**, which reads as under :

In the instant regular second appeal, the appellant-Gurjeet Kaur, who is mother of deceased Gurpreet Singh, has questioned the validity of the judgments and decrees dated 28.02.2013 passed by learned Civil Judge (Junior Division), Bathinda and dated 18.12.2014 passed by learned Additional District Judge (Fast Track Court), Bathinda respectively, by which claim of 1/3rd retiral benefits, which were due to Late Gurpreet Singh, has been denied on the score that Gurpreet Singh had nominated his father's name, Kamaljit Singh.

Brief facts of the case are that Gurpreet Singh died on 27.10.2008. His father Kamaljit Singh filed a suit for declaration in which it was contended that he is entitled to receive all the pensionary benefits and compensation from the department. The trial Court dismissed his suit. Aggrieved by the order of the trial Court, he preferred an appeal before the appellate Court, which was also dismissed vide judgment and decree dated 18.12.2014. It is stated that Gurjeet Kaur, mother of Late Gurpreet Singh had filed an appeal before the appellate Court, even though she was not party to the civil suit. In this background whether the parents Kamaljit Singh and

Gurjeet Kaur are entitled to benefit of pensionary benefits and compensation in lieu of their son's death on 27.10.2008. The provision for grant of pension is governed by Central Civil Services(pension) Rules. Rule 54(14)(b) deals with definition of family, which reads as follows :-

“(b) 'family' in relation to a Government servant means-

(i) wife in the case of a male Government servant, or husband in the case of a female Government servant”

Reading of the above provision is crystal clear that parents are not included in the definition of “family”, therefore, the appellant Gurjeet Kaur, being one of the parent cannot claim pensionary benefits and compensation, if any, from respondents No. 2 and 3. Respondent No. 1-Manpreet Kaur widow of Gurpreet Singh is solely entitled to pensionary benefits and compensation under the above provision [Rule 54 (14) (b) (i)].

Learned counsel for the appellant submitted that under Indian Succession Act, the parents are entitled to 1/3rd benefit. In support of his contention, he relied upon a decision of Hon'ble the Supreme Court of India in case ***'Shipra Sengupta Vs. Mridul Sengupta and others***, 2009(8) SLR 568, wherein in para 17, it has been held as under :-

“17. The controversy involved in the instant case is no longer res integra. The nominee is entitled to

receive the same, but the amount so received is to be distributed according to the law of succession.”

It was submitted that appellant is entitled for 1/3rd pensionary benefits etc. in view of the above decision.

Per contra, learned counsel for the respondents submitted that they are bound by Central Civil Services (pension) Rules. Therefore, Manpreet Kaur widow of Gurpreet Singh alone is entitled for pensionary benefits etc. Therefore, trial Court as well as appellate Court has rightly rejected the claim of the appellant.

Heard learned counsel for the parties.

The crux of the matter is whether the appellants are entitled for pensionary benefits or compensation or 1/3rd of the benefits, if any, being parents of late Gurpreet Singh? Reading of the provision governing the grant of pensionary benefits and compensation. Manpreet Kaur wife of Late Gurpreet Singh is entitled to retiral benefits. The decision of the Hon'ble Supreme Court cited by the learned counsel for the appellant in **Shipra Sengupta's case (supra)** is distinguishable for the reasons that pension rules applicable in the present case were not interpreted in the said decision. Therefore, the cited decision is not applicable to the present case.

The Apex Court in the case of ***Nair Service Society Vs. T. Beermasthan and others***, Civil Appeal No. 1991 of 2009, decided on 30.03.2009, has held that before a decision of the

Hon'ble Supreme Court is taken into consideration, the relevant provision of law is to be looked into and interpreted should be given. The relevant extract from para 45 of the judgment is as under :-

“45. Different State Governments in the country may have different methods for providing reservations, and these will be valid as long as the method adopted by a particular State Government does not violate any constitutional provision or statute. It is not for this Court to decide on the wisdom or otherwise of the said method of reservation. This Court should exercise judicial restraint and not interfere with the same unless there is some clear illegality. In our opinion the method prescribed by the Rules made by the State Government suffers from no infirmity or illegality, and hence the High Court acted wrongly in allowing the Writ Petition. We are clearly of the opinion that the High Court has placed a wrong interpretation on the relevant Rules.

In view of the facts of the case and rule, the appellants have not made out a case so as to claim for 1/3rd pension etc.

Accordingly, both the appeals are dismissed.

May 09, 2016.
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(P.B. BAJANTHRI)
JUDGE