211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13944 of 2014 (O&M)
Date of decision : March 21, 2017

Jaswinder Kaur .... Petitioner

Versus

Punjab State Power Corporation Limited and others .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Anna Bansal, Advocate for
Mr. Ram Lal Gupta, Advocate for the petitioner.

Ms. Avin Sandhu, Advocate for
Mr. Amit Aggarwal, 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)

Late Gurjant Singh, husband of the petitioner was working as Junior Engineer (Civil) in the then Punjab State Electricity Board (for short 'PSEB'), now known as Punjab State Power Corporation Limited (for short 'PSPCL') since 11.07.1974. He died in harness on 09.12.1990 while performing his duties in PSEB. After his death as per Pension Circular dated 24.06.1986 (Annexure P-1), the special pension equal to the last pay drawn by the deceased employee along with relief sanctioned from time to time was granted to the petitioner till the date of retirement of the deceased employee and thereafter, family pension was to be granted. At the time of death, Gurjant Singh was drawing basic pay of ₹2,400/- per month in the pay scale of ₹2,100-3,700/-. The special pension was, accordingly, fixed as per Pension Circular dated 24.06.1986 (Annexure P-1). Gurjant Singh was due to superannuate on 31.03.2009. It is not disputed by the petitioner that she being widow of the deceased employee was also granted compassionate appointment by the respondents and she is still working on the said post. According to the petitioner, the pay scale of the employees of PSEB was revised w.e.f. 01.01.1996 by framing PSEB Revised Pay Regulations 1998.

It is further stated that the corresponding pay scale of ₹2,100-3,700/- was ₹7,250-11,140/-. Therefore, the special pension of the petitioner should have been sanctioned in the said pay scale and the arrears should have been paid till 31.03.2009 when deceased Gurjant Singh was to superannuate.

However, vide pension payment order dated 18.05.2001 (Annexure P-2), special pension of the petitioner was fixed w.e.f. 01.01.1996 to 31.03.2009 on the basis of basic pay of ₹6,364/- instead of ₹7,250/-. The special pension was required to be fixed, in terms of Circular dated 24.06.1986 (Annexure P-1). The petitioner being aggrieved by the said Pension Payment Order dated 18.05.2001 (Annexure P-2) and the order dated 19.03.2008 (Annexure P-5), whereby her representation endorsed on 15.01.2008 (Annexure P-4), was rejected by the respondent, filed a civil suit bearing No.166 of 27.08.2009 in the Court of learned Addl. Civil Judge (Sr. Divn.), Bathinda, claiming the fixation of special pension in the revised pay scale of ₹7,250-11,140/-. Learned Addl. Civil Judge (Sr. Divn.), Bathida, dismissed the said suit on 20.04.2012. The appeal filed against the said order dated 20.04.2012 before the learned Addl. District Judge, Bathinda was allowed vide judgment dated 11.12.2013 (Annexure P-7) and the respondents were directed to consider the representation filed by the petitioner, after giving her opportunity of hearing and pass a speaking order within a period of three months. Thereafter, the impugned order dated 03.04.2014 (Annexure P-9) was passed by the respondents, vide which the claim of the petitioner was declined. Hence, the present petition.

The respondents in the reply have not disputed the factual position that the petitioner was granted special family pension on account of death of her husband in harness while performing duty. However, it was stated that the revised pension has been correctly fixed, after giving the opportunity of hearing to the petitioner, in terms of the judgment dated 11.12.2013 (Annexure P-7) passed by the learned Addl. District Judge, Bathinda.

It is stated that as per order dated 24.06.1986 (Annexure P-1/R-3), the special pension is to be given on the basis of last pay drawn by the deceased employee along with relief sanctioned from time to time up to the date when the employee would have retired on the date of superannuation. Thereafter, the family pension will be granted under the pension rules.

It is also stated that the word 'relief' does not mean that the revised pay scales are to be given. The respondents claim that they relied upon the Circular dated 04.09.1998 (Annexure R-4) regarding the grant of pension and Circular endorsed on 15.10.2009 (Annexure R-5) and upon the compassionate appointment policy dated 23.11.2004 (Annexure R-6) to fix the special family pension of the petitioner and the same was correctly fixed.

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

The reliance of the petitioner is on the Circular dated 24.06.1986 (Annexure P-1), whereby the special family pension was fixed. The relevant extract from the same is reproduced as under:

> *"The Punjab State Electricity Board has decided, as a good will gesture and also to enable the bereaved families to live with dignity, that the families of the regular employees who die while performing their official duties and become victims of fatal accident while on duty, be granted special pensionary benefits as under:*
>
> *i) These pensionary benefits will be equal to the last pay drawn by the deceased employee along with relief sanctioned from time to time up to the date superannuation. Thereafter the family will be entitled to the family pension in accordance with the family pension rules."*

The question is regarding interpretation of words 'relief sanctioned from time to time' mentioned in the said Circular. As per said Circular, the pensionary benefit are to be sanctioned equal to the last pay drawn along with relief sanctioned from time to time.

Now, the question would arise as to whether 'relief sanctioned from time to time' includes the revised pay scale also?

I am of the view that the relief would not include the revised pay scales. It is clearly mentioned that the pension is to be fixed equal to the last pay drawn by the deceased employee. Therefore, the other relief means the other relief in the shape of D.A. and other allowances granted from time to time. It would mean that if new pay scales are granted to the existing employees, the pension is not to be revised to the corresponding pay scales, though, the Circular dated 04.09.1998 (Annexure R-4) talks about the pension and other retiral benefits.

It comes out that vide Policy dated 23.11.2004 (Anenxure R-6), the policy regarding compassionate appointments -2002 was framed. The relevant extract of the same is reproduced as under:

> *"ii) And in addition to the 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. Deptt. of Finance Notification NO.1/7/98/IFPIII/8825 dated 21 July/18th Aug., 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 employement) of (ii) the date of death of whichever is later on the basis of decision taken by the O/o the Secretary/ENG-II, PSEB, Patiala."*

A perusal of the said policy would show that in case of death of an employee while performing duties, new pay scales are not to be granted while fixing the special pension.

In the present case, the Department has met with the letter and spirit of the policy dated 23.11.2004 (Annexure R-6) as well as Circular dated 24.06.1986 (Annexure P-1) by not only granting the special pension but also compassionate appointment to the wife of the petitioner. In this way, the petitioner is getting the salary of a serving employee as well as the special pension on account of the death of her husband. Therefore, I do not find any illegality or infirmity in the impugned order dated 03.04.2014 (Annexure P-9), vide which the respondents refused to refix the special pension as per revised pay scales. Hence, there are no merits in the present petition. As such, the same is dismissed.

(KULDIP SINGH)
JUDGE

March 21, 2017
sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes