

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18117 of 2015 (O&M)

Date of Decision: 21.03.2017

Arun Bansal & Anr.

... Petitioners

VS.

Union of India & Anr.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Petitioner in person

Mr. SP Jain, Addl.Solicitor General of India with
Mr. Neeraj Jain, Advocate for UOI

Mr. Aman Chaudhary, Advocate for respondent No.2

SURYA KANT, J. (Oral)

(1) The petitioners are two brothers. They are sons of late Raj Kumar Bansal, who was in the service of Kendriya Vidyalaya No.I, Bathinda Cantt. as a Teacher. He unfortunately died in a road accident on 29.05.1993. His wife Smt. Kamlesh Bansal, namely, the mother of the petitioners was thereafter appointed on compassionate grounds in the same school. She too unfortunately passed away on 07.09.2004 while in service. Before her death Smt. Kamlesh was paid enhanced 'family pension' on account of the death of her husband for the period from 30.05.1993 to 29.05.2000.

(2) After the death of their mother, the petitioners were paid family pension which has now been stopped in the year 2015 as they are said to have crossed the maximum age limit.

(3) In the instant writ petition, the petitioners seek a writ of mandamus for directing, the amendment of Rule 49(1)&(2) read with Rule 54(2) of Central Civil Services (Pension) Rules, 1972 on the ground that these provisions bring an artificial discrimination amongst the 'pensioners' and the 'family pensioners'. While the 'pensioners' are entitled to pension @ 50% of the last pay drawn, such benefit has been limited to @ 30% of basic pay and/or maximum of the 30% of

the highest pay in the Government, as the case may be, in the case of ‘family pensioners’. The petitioners have averred that the socio-economic conditions of a ‘family pensioner’ after the sudden demise of bread-earner of family is a stronger mitigating circumstance and such family pensioners are more needy for the financial assistance as compared to an ordinary pensioner.

(4) We have heard the first petitioner in person as well as learned Additional Solicitor General for Union of India besides learned counsel for respondent No.2 – KVS.

(5) Union of India has taken a stand that as of now it does not deem it necessary to amend the Rules especially when the very concept of pension has been drastically changed after 2004.

(6) Since the ‘pensioners’ and ‘family pensioners’ constitute two different and distinct class of beneficiaries, it is difficult for this Court to take a positive view that the latter category has been discriminated vis-à-vis the first category. In any case, no writ of mandamus can be issued to direct the amendment of statutory Rules. The Rules conferring right to pension or family pension partake the character of a welfare policy also and it is for the policy makers to re-visit their decision from time to time, keeping in view the need of the changing society. We have no reason to doubt that the appropriate authority in the Central Government shall consider the issue(s) taken up by the petitioners in their right and proper perspective as and when the occasion to re-visit the Rules arises.

(7) Disposed of accordingly.

(Surya Kant)
Judge

21.03.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No