

**226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.18659 of 2015 (O&M)
Date of decision : March 22, 2017**

Smt. Maya Pati

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

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)

The claim of the petitioner is for issuance of writ in the nature of mandamus directing the respondents to grant the family pension to the petitioner along with arrears thereof, in view of Rule 3.17A of Punjab Civil Services Rules, Volume II, Chapter III (as applicable to Haryana).

According to the petitioner, her husband Late Balwan Singh was working as Salesman in Haryana State Federation of Consumers Cooperative Wholesale Store Limited (Confed) since 16.03.1981. On 11.01.2002, the Government of Haryana closed all the Retail Outlets of Confed and 322 posts of Salesmen were abolished. Accordingly, the husband of the petitioner was retrenched from service. Thereafter, it comes out that the Government framed Policy on 21.06.2006 and decided to adjust the retrenched employees in other Departments. Consequently, on the recommendations of the Government of Haryana, the husband of the

petitioner was appointed as Clerk in the Food and Supplies Department, Haryana, vide appointment letter dated 04.10.2007 (Annexure P-3) and the husband of the petitioner joined as such on 11.10.2007. Thereafter, he was promoted as Auditor on 29.03.2013. He died in harness on 15.05.2014.

In the reply, the respondents have taken the stand that it was a fresh appointment in Food and Supplies Department, therefore, he was not entitled for the benefits of the past service rendered by him in Confed. From 16.03.1981 to 11.01.2002. It is also stated that vide Notification dated 28.10.2005, the Government had decided that the employees, who are appointed on or after 01.01.2006, they shall be governed by the “New Defined Contributory Pension Scheme”. It was also decided vide said Notification that Punjab Civil Service Rules Volume-II as applicable to State of Haryana are not applicable to the Government employees who are appointed on or after 01.01.2006 and they shall be governed by the “New Defined Contributory Pension Scheme”, notified by the Government. Therefore, it is clear that since they are not covered under the Family Pension Scheme, 1964, so no benefit under CSR Volume-II will be available to them.

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

Admittedly, the husband of the petitioner was retrenched from service on 11.01.2002 from Confed. Later on, in the year 2006, the Government framed the Policy for adjusting the retrenched employees of the Confed in various departments. Accordingly, the appointment letter dated 04.10.2007 (Annexure P-3) was issued. The terms and conditions of the said

letter show that it was a fresh appointment of available Group 'C' post. It was further stipulated that the person will not claim any benefit of the past service for the period prior to retrenchment as per his declaration on oath or for the period he remained out of service as a result of retrenchment in any manner. The appointment was purely on temporary basis and the husband of the petitioner was placed junior most in the seniority list. The husband of the petitioner accepted the said terms and conditions of the appointment letter.

As it was a fresh appointment, therefore, “New New Defined Contributory Pension Scheme” is applicable to the husband of the petitioner, under which there is no provision of grant of family pension.

It being so, the petitioner is not entitled to the family pension, in terms of Rule 3.17A of Punjab Civil Services Rules, Volume II, Chapter III.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

March 22, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No