277 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5360 of 2016 (O&M)
DECIDED ON: JULY 11, 2017

SATWINDER KAUR

.....PETITIONER

VERSUS

PUNJAB STATE POWER CORPORATION LTD. & ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.K. Rattan, Advocate
for the petitioner.

Mr. R.L. Sharma, Advocate
for respondents No.1 to 3.

Mr. Sumeet Goel, Advocate
for respondent No.4.

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JASPAL SINGH, J (ORAL)

Through this instant civil writ petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought for the issuance of a writ in the nature of Mandamus directing the respondents No.1 to 3 to grant family pension and other pensionary benefits on account of services rendered by her husband.

At the very outset, it has been submitted by learned counsel for the petitioner that though pensionary benefits have already been released and disbursed by respondents No.1 to 3 to the petitioner during the pendency of instant writ petition but respondents have wrongly deducted the income tax on the amount so released or disbursed to the petitioner. Section 89 of the Income

Tax Act, 1961 provides that the arrears of amount spread out for the period from 2006 to 2016 (combinedly), is not taxable as has been interpretted by Hon'ble Apex Court in the case of ***Ras Behari vs. Haryana Agriculture University; AIR 1987 (SC) 1833.*** However, deducted TDS amount has already been credited in the account of Income Tax Department. As per Rules and Regulations of the Income Tax Department the amount deducted can only be refunded to the petitioner, if she moves an application in this regard to the Income Tax Department. Thus, Income Tax Officer is directed to grant an appropriate relief as prescribed under law, in case petitioner moves any application for the refund of TDS. Moreover, respondent No.2 shall assist the petitioner for the preparation of revised income tax returns or any other document with regard to the bifurcation of income tax year wise to the income tax authorities for the refund of amount, which already stands deposited in the department as referred to above on account of tax deduction on a total amount of ₹21,28,208/-

With the afore-said observation, instant petition is disposed of.

JULY 11, 2017 **(JASPAL SINGH)**
sham **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*