

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7635 of 2015

Date of Decision: 09.01.2017

RAJ KAUR

... Petitioner

VS.

PUNJAB STATE ELECTRICITY BOARD AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. M.S. Joshi, Advocate,
for the petitioner.

Mr. Ashu Kaushik, Advocate,
for the respondents.

KULDIP SINGH, J. (Oral)

The petitioner has preferred the present writ petition under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari for quashing the impugned order dated 06.01.2015 (Annexure P-9) passed by the respondents. Prayer is also made for issuance of a writ in the nature of mandamus for directing the respondents to pay the family pension and other service benefits to the petitioner alongwith interest, she being the widow of Faqir Singh Dhillon, Foreman.

Brief facts of this case are that the petitioner married Faqir Singh Dhillon on 15.01.1975. Faqir Singh Dhillon was working as Foreman in Punjab State Electricity Board and died in harness on 04.02.2004. Later on, it transpired that Faqir Singh Dhillon had obtained an ex-parte decree of divorce against the petitioner on 08.12.1989. However, they continued to live together as husband and wife even after the passing of said ex-parte decree of divorce.

When the petitioner came to know about the said ex-parte decree of divorce,

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she raised objections and Faqir Singh Dhillon was advised that instead of getting the ex-parte decree of divorce set aside, it is easy to remarry. Accordingly, the petitioner got remarried Faqir Singh Dhillon on 13.04.1990 at Gurudwara Sahib, Shri Guru Singh Sabha, DCW, Patiala in the presence of relatives and respectable. The petitioner had a ration card with her husband Faqir Singh Dhillon and their children. Even in the voter list, her husband name was mentioned as Faqir Singh Dhillon. It is further stated that the Faqir Singh Dhillon has also availed LTC with his wife (Raj Kaur) and their four children. The petitioner was also named as a nominee in the LIC Policy and she has been named as a guarantor of the said Faqir Singh Dhillon in the loan agreement. The petitioner, after the death of her husband-Faqir Singh Dhillon had applied for family pension and when the same was not granted, she filed a civil suit bearing No. 975-T on 14.09.2009 which was decided by the Civil Judge, Junior Division, Patiala on 18.05.2013 (Annexure P-4) vide which the declaration was granted that the petitioner is legally wedded wife of the Faqir Singh Dhillon. Now, the claim of the petitioner is for release of family pension to her.

The respondents in the reply have taken the stand that the petitioner was admittedly informed that the deceased had taken a divorce on 08.12.1989 and the family pension and other pensionary benefits were declined to the petitioner immediately after the death of the deceased employee. Thereafter, one of the daughters of petitioner, namely Rajinder Kaur, had filed an application for grant of family pension and other pensionary benefits. Other daughters, had also filed affidavits that they have no objection if the family pension and other pensionary benefits are released to Rajinder Kaur.

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Accordingly, Rajinder Kaur was getting family pension w.e.f. 05.02.2004. In the year 2009 said Rajinder Kaur got married and the family pension got discontinued. After the stopping of the family pension, the petitioner filed a civil suit and obtained the decree without making the respondent department as party.

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

In the present petition, the claim is only for grant of family pension to the petitioner. So far as the other pensionary benefits are concerned, the daughter of the deceased employee and the petitioner-Rajinder Kaur had filed an application alongwith no objection of other legal heirs and the same was released to her prior to the decree dated 18.05.2013 passed by the Civil Judge, Junior Division, Patiala. Therefore, the same is valid discharge by the respondent department. Now, said Rajinder Kaur has got married and as per Rules, she is not entitled to family pension. Admittedly, Faqir Singh Dhillon had obtained a decree of divorce dated 08.12.1989 which was never set aside. However, in the Civil Suit dated 14.09.2009, the petitioner had claimed that she had remarried Faqir Singh Dhillon on 13.04.1990 at Gurudwara Sahib, Shir Guru Singh Sabha, DCW, Patiala in the presence of relatives and respectable. I am of the view that there is no bar on the remarriage with the same husband after the divorce decree. The said claim of the petitioner was proved by leading cogent evidence. According to the petitioner, the parties lived together as husband and wife and availed LTC jointly. In the voters list and Ration Card they are shown as husband and wife. Consequently, the petitioner being the

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widow of the deceases employee is entitled to the family pension from the date her daughter Rajinder Kaur got married.

In view of the foregoing discussion, the present petition stands allowed and the respondents are directed to release the family pension to the petitioner from the date it was stopped to her daughter Rajinder Kaur.

January 9, 2017
Suresh Kumar

[KULDIP SINGH]
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	Yes / ✓ No