

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8712-2015

Date of decision : 01.02.2017

Tara Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Manu K. Bhandari, Advocate,
for the petitioner.

Mr. Naveen Sheoran, Deputy Advocate General, Haryana,
for respondent Nos.1 to 3.

Ms. Sunint Kaur, Advocate,
for respondent No.4.

KULDIP SINGH J. (ORAL)

Shri Krishan Lal Bansal, husband of the petitioner, retired Superintendent from Haryana Urban Development Authority (for short, 'HUDA') was previously employed with effect from 27.05.1965 in Director Urban Estate, Haryana, Panchkula, which was a pensionable job. Later on, he was sent on deputation to HUDA and was absorbed there on 30.09.1978. He superannuated from HUDA on 31.10.1997. The Haryana Government on account of his 13 years 4 months and 5 days services under the Director Urban Estate, Haryana, Panchkula, granted him pro rata pension vide Pension Payment Order dated 14.03.2001 (Annexure P-3). The husband of the petitioner expired on 29.11.2012. Now, family pension of the petitioner has been denied on account of instructions dated 11.05.1977 (Annexure P-1), which deals with the cases of the Haryana Government employees, who were transferred to other Government, Companies, Corporations, Boards,

No.12A (viii) in the said instructions that the Government would have no liability for family pension in such cases, has been challenged that same is contrary to the Family Pension Scheme, 1964. Petitioner claims that she is entitled to family pension.

No relief is claimed against HUDA. However, the State, in the reply, has taken the stand that as per instructions dated 11.05.1977 (Annexure P-1), the Government is not liable to pay the family pension.

I have heard learned counsel for the parties and gone through the record of the case.

A short law point arising before this Court is as to whether the family of a deceased employee, who on account of previous service under the Government is entitled to pro-rata pension and dies while receiving the pension, then his family is entitled to family pension or not? The Family Pension Scheme, 1964 provides for grant of family pension to the family of deceased Government employee. Under the said scheme, the family pension is admissible on account of death of an employee after his retirement. Admittedly, wife is included in the definition of family. The instructions dated 11.05.1977 (Annexure P-1) deals with the transfer of Haryana Government employees to other Governments, Companies, Corporations, Boards, Municipal Committees etc. It deals with the various aspects on accounts of deputation of an employee. Rule 12 of the said instructions deals with grant of retiral benefit on permanent absorption in the Public Sector Undertakings. The said rule provides pro-rata pension and death-cum-retirement gratuity based on the length of his qualifying service under the Government till the date of absorption. It is apparently on the basis of this rule that husband of the petitioner was granted pro-rata pension. Now,

the offending rule is Rule 12A (viii), which is reproduced as under:-

“(viii) Government would have no liability for family pension in such cases.”

I am of the view that the said rules run contrary to Family Pension Scheme, 1964. Once an employee on his retirement gets pension on account of service under the Government, he is at the same footing as an employee retired from the service of the Government qua his service is rendered with the Government. Therefore, the Government cannot make discrimination that the employee, who were absorbed under the other departments and who were being allowed pro-rata pension on account of service rendered under the Government then his family will not be allowed family pension. Once a retired employee is getting pension from the Government, the necessary consequences will follow that on account of his death, his family will be on the same footing as that of a retired employee under the Government and be entitled to family pension as such. Accordingly, the said Rule 12A (viii), which is reproduced above, denying the liability of the Government for family pension in such cases is held illegal and struck down. Accordingly, the petition is allowed. Respondent are ordered to allow the family pension to the petitioner from the date of death of her husband. Needful be done within three months from the date of receipt of certified copy of this order.

(KULDIP SINGH)
JUDGE

01.02.2017
adhikari

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