

CWP No.8613 of 2016

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.8613 of 2016

Date of decision:26.10.2017

U.T.Chandigarh and others

... Petitioners

Vs.

Central Administrative Tribunal, Chandigarh and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Suman Jain, Advocate and
Mr. Abhishek Sanghi, Advocate
for the petitioners.

Mr. R.S.Bains, Advocate
for respondent No.2.

AMIT RAWAL, J.

1. The petitioners-Chandigarh Administration has preferred a writ petition under Articles 226 and 227 of the Constitution against the order dated 04.01.2016 (Annexure P-4) of the Central Administrative Tribunal (for short 'the CAT'), whereby, the claim qua family pension of respondent No.2-Poonam alleging herself to be wife of deceased Paramjit Singh, had been allowed in the following manner:-

“13. We have given our careful consideration to the matter. From the material on record and arguments advanced by learned counsel it appears to us that the status of the applicant as widow of Sh. Paramjit Singh, deceased employee is not in doubt. The Marriage Certificate dated 07.01.2013 has been

verified by the Registrar of Marriages. Besides, deceased employee has filed his nomination for GPF on 03.12.2012 (Annexure A-4) indicating the applicant as his nominee. ID card issued by the respondent department itself shows Ms. Poonam as the wife of Sh. Paramjit Singh. On the other hand, documents placed on record by the respondents, i.e. nomination form of 2006 in favour of one Ms. Sangita and regarding marriage of one Ms. Poonam do not appear to be authentic ones. In view of the position narrated in the rejoinder, which has not been rebutted by the respondent department, the OA is decided in favour of the applicant. The respondent department may release 50% of the family pension in favour of the applicant from due date of 06.12.2013 along with 8% interest on the payment of arrears of the same till the actual date of release. 50% of the other retiral benefits may also be released to the applicant. Action in this regard may be completed within six weeks from a certified copy of this order being served upon the respondents. Claim to balance 50% of the family pension and remaining retiral benefits may be established by Sh. Atish, son of the deceased employee and Ms. Poonam through civil Court if so advised.”

2. Mr. Suman Jain and Mr. Abhishek Sanghi, Advocates appearing on behalf of the petitioners submitted that the matter of determination of legal heirs of deceased employee do not fall within the

purview of Section 14 of The Administrative Tribunal Act, 1985 (for short '1985 Act') but could be effectively adjudicated by the Civil Court. The CAT had erred in passing the impugned order in the absence of cogent evidence having been placed on record regarding the status of legal heirs in respect of pensionary benefits of the deceased employee, after his demise. On account of divergent claims having been made by all legal heirs, the case became suspicious and the petitioner(s) being a Government Department is required to take care of the State Finances. The Collector, U.T.Chandigarh Administration, vide order dated 24.07.2013 (Annexure R-2) declared three legal heirs of late Sh. Paramjit Singh, i.e., Poonam (wife), Rattan Kaur (mother) and Atish (son). In such circumstances, the aforesaid order could not have been passed.

3. Mr. R.S.Bains, learned counsel appearing on behalf of the applicant/respondent No.2 submitted that status of respondent No.2 as widow of deceased Paramjit Singh, in view of the Marriage Certificate dated 07.01.2013, had been verified by the Registrar of the Marriages. Respondent No.2 is the only legal claimant for family pension and other benefits. The husband of respondent No.2 served petitioner No.1 for 22 years and 8 months. The previous marriage of Paramjit Singh with Neelam Kumari had been dissolved by decree of divorce dated 02.11.2002 (Annexure R-2/1), whereas the marriage between the applicant/respondent No.2 and Paramjit Singh was performed on 07.01.2013 which is evident from Annexure R-2/2. Atish is living with his mother and adopted by his father -Dharam Pal. Rattan Kaur-mother of deceased Paramjit Singh had

also died. Learned counsel prayed that writ petition be dismissed.

4. During the course of hearing, Chandigarh Administration has produced the record regarding the nomination form filled by Paramjit Singh. On examination of record, i.e., the nomination form dated 03.12.2012 filled by Paramjit Singh, whereby, he had appointed Poonam describing his wife, as nominee. The original record has been returned back.

5. In view of the factual background, where Poonam-respondent No.2 has been held entitled to release of 50% of the family pension from 06.12.2013 alongwith 8% interest as the payment of arrears till the actual date of release and also 50% of the retiral benefits, the findings of the CAT as noticed above, in our view, do not call for any interference as the question of claiming balance 50% of the family pension and other retiral benefits has been kept open to be adjudicated by the Civil Court between Sh. Atish, son of the deceased and Ms.Poonam. Either of the parties shall be at liberty to lay claim before the Civil Court, in accordance with law.

6. We do not find any illegality and perversity in the impugned order. The order of the CAT is upheld.

7. Accordingly, the writ petition stands dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

October 26, 2017

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No