

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

CWP-1718-2015 (O&M)
Date of decision : 22.11.2018

Jasbir Kaur and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gurinder Singh, Advocate,
for Mr. Jagmeet Singh Moudgill, Advocate,
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab,
assisted by ASI Devi Dayal.

JITENDRA CHAUHAN, J. (Oral)

The petitioners being wife and minor son of deceased, Jagdish Singh, who died in harness, seek issuance of a direction to the respondents for grant family pension.

It is contended that the husband of petitioner No.1 was appointed as SPO in the Punjab Police w.e.f. 26.10.1993. His services were regularised w.e.f. 20.11.2006 vide order dated 09.11.2006 (Annexure P-2). The husband of the petitioner No.1 died while in service on 09.01.2012, leaving behind the petitioners as his only legal heirs.

The grouse of the petitioners is that their claim for grant of family pension has been rejected on the ground that the services of the deceased were regularized in the year 2006 and therefore, he was covered under the New Pension Scheme.

On the other hand, learned State counsel has furnished a copy

of letter dated 19.11.2018 issued by the Commandant, 36th Battalion, Punjab Armed Police, Bahadurgarh, Patiala, which is taken on record as Mark 'A'. As per the said communication, the case of deceased-husband of petitioner No.1 has been transferred from the New Defined Contribution Pension Scheme to the old pension scheme vide order dated 23.02.2018. Now, family pension has also been allowed to the petitioner-wife. However, during the pendency of the present petition, an amount of ₹1,93,834/- against the NPS account stands remitted to the petitioners' account. Therefore, learned State counsel submits that the petitioners have to repay the amount received by them from the NPS Account of the deceased to the extent of contribution of the employer.

In view of the above, the instant petition is disposed of with the direction to the respondents to calculate the amount to be paid by the petitioner after deducting the contribution made by the deceased. The deduction be made from the family pension in monthly instalments, which shall not exceed from 50% of the monthly pension. The petitioners are also free, if they choose, to refund the amount so calculated in one go or instalments after negotiating with the competent authority.

Disposed of.

22.11.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No