

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 21782 of 2013

Date of Decision : 10.12.2018

Bimla Devi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.K. Goklaney, Advocate for the petitioner.

Ms. Anju Arora, Additional Advocate General, Punjab.

Mr. Sanjeev Sharma, Advocate for respondent No. 3.

Harsimran Singh Sethi, J.(Oral)

In the present case, the petitioner has approached this Court claiming the pensionary benefits for the service which the late husband of the petitioner had discharged with Municipal Council, Fazilka from November 1970 till June, 1999.

The claim set up in the petition is that husband of the petitioner was appointed as a Clerk on 23.11.1970 and he kept working as such till he superannuated on 30.06.1999. Husband of the petitioner, unfortunately, passed away on 01.07.2012 i.e. approximately after 13 years of his retirement.

In the present case, the petitioner is claiming that after the death of her husband, she found a letter addressed by her husband to the respondents dated 12.10.1994 by which he had given option for pension under the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 (hereinafter referred to as 'Rules of 1994') and, therefore,

once the husband of the petitioner had opted for the pension, she should be granted pension.

Notice of motion was issued to the respondents on 01.10.2013.

The respondents in their reply had denied the existence of letter dated 12.10.1994 (Annexure P-4) i.e. the option purportedly given by the late husband of the petitioner. Further, it has been mentioned that had the said option given by the late husband of the petitioner, he would have immediately raised up the issue of claim of pension on his retirement in the year 1999 but no such claim was made by him during his lifetime even after 13 years of retirement and hence, the pension cannot be paid to the petitioner.

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

In the present writ petition, the disputed question of facts arises as to whether the late husband of the petitioner, in fact, made an application giving option for pension under the Rules of 1994 or not? As there are disputed questions of facts, this Court cannot go into it and grant relief to the petitioner.

Faced with this situation, learned counsel for the petitioner states that he be given liberty to withdraw the present writ petition to approach the Civil Court in accordance with law.

Dismissed as withdrawn with aforesaid liberty.

December 10, 2018
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? *Yes/No*
Whether reportable? *Yes/No*