

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.16019 of 2018

Date of Decision:-06.08.2018

Gurpreet Kaur.

.....Petitioner.

Versus

Punjab State Agriculture marketing Board & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Gurbachan Singh Bhatia, Advocate for Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner-Gurpreet Kaur has filed the present writ petition seeking the setting aside of the order dated 09.05.2018 (**P-10**) passed by the Secretary, Punjab State Agricultural Marketing Board in compliance of the directions dated 15.02.2018 passed by the learned Single Judge by this Court in a writ petition filed by Gurmeet Singh estranged husband of the Petitioner, whereby request of the wife for direct release of 50% of salary has been declined.

It transpires that respondent no.2-Gurmeet Singh was married and out of the wedlock a son was born on 26.02.2013. Due to a matrimonial dispute the Petitioner-wife along with minor son is stated to be residing at her parental home since the year 2012. Petitioner-wife is stated to have filed a petition under Section 125 Cr.PC in the year 2015 for grant of maintenance to her as well as the minor son. The said application was

withdrawn due to prospects of an amicable settlement.

Concededly Gurmeet Singh is working as a Clerk with the Punjab State Agricultural Marketing Board and the petitioner-wife made application on 26.4.2015 before the Authorities concerned for a direction to directly release the 50% of the salary towards the maintenance charges. The Secretary, Punjab State Agricultural Marketing Board passed an order dated 27.01.2016 allowing the application of the petitioner based on incorporation of the order dated 23.08.2011 passed by this Court in CWP No.11655 of 2010 duly affirmed in LPA No.2149 of 2011 decided on 22.03.2013. The husband Gurmeet Singh filed writ petition challenging the order dated 27.01.2016 which was got dismissed as withdrawn on 22.10.2016 and thereafter filed a fresh CWP No.26202 of 2017 challenging the same order, which was disposed of vide order dated 15.02.2018 directing the competent authority to re-examine the matter and pass a fresh order in the light of the alleged fresh developments i.e. the negotiations for an amicable settlement.

In compliance of the aforesaid orders, the present impugned order stands passed whereby the request for directing the payment of 50% of the salary directly to the wife and the minor son has been declined.

After hearing Counsel for the petitioner no case for interference is made out.

The reasons stated in the speaking order qua the decision in the previous writ petition upheld in the LPA Bench are legally correct and hence cannot be faulted with. In the cited judgment, it was the DGP who keeping in view the facts of the case had directed the release of 50% amount. The facts of the present case are distinguishable apart from the fact that there is no statutory provision, which vests with the employer-Authority

to directly order the release of 50% of the salary of an employee to the dependents in the absence of any judicial adjudication. The petitioner and other such like unfortunate litigants have a remedy under the various statutes to be invoked in accordance with law. Factually such remedy has been invoked in the present case. Counsel for the petitioner has submitted that the application for interim maintenance in the pending maintenance application under Section 125 Cr.PC before the SDJM, Kharar were withdrawn on 23.08.2016 in view of the chances of amicable settlement between the parties. However, in view of the the amicable settlement having failed, the wife is entitled to file a fresh application seeking the revival of the previous maintenance application. The said plea in the opinion of this Court is to be raised before the SDJM, Kharar who would be bound to decide the same in accordance with law.

In view of the above, finding no merit in the present writ petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 06, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>