

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

(240)

CWP-25247-2016

Date of Decision: November 20, 2018

Ramandeep Kaur

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Mania Munjal, Advocate, for
Mr. Rajeev Kawatra, Advocate, for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

The present petition has been filed against the order dated 24.08.2016 by which the claim of the petitioner for the grant of family pension has been declined. In the writ petition, it has been averred that husband of the petitioner, namely, Malkiat Singh was appointed as Special Police Officer on 27.09.1993 and was subsequently absorbed as a Constable in Punjab Police on 09.06.2010. Unfortunately, on 09.07.2011 while in service, the husband of the petitioner died. The claim was made by the petitioner for the grant of family pension in respect of the service rendered by the husband of the petitioner from the year 1993 till 09.07.2011. Respondents passed an order on 24.08.2016 rejecting the claim on the ground that husband of the petitioner was appointed as a Constable on 09.06.2010 and as new pension policy had come into force with effect from 01.01.2004, the petitioner is not entitled for the family pension. The said order is under challenge in the present writ petition.

In reply, the factual position that the husband of the petitioner was appointed as Special Police Officer on 27.09.1993 and was later

absorbed down on 09.06.2010 stands admitted. The averments made in paragraphs 2 and 3 of the petition have been admitted by the respondents in their reply. The reason given for rejecting the claim of the petitioner was that only the service rendered by the petitioner on regular basis is to be counted for considering the case of the petitioner for grant of family pension.

I have heard learned counsel for the respondents.

This Court in **CWP No.2371 of 2010 titled Harbans Lal Vs. State of Punjab and others decided on 31.08.2010** has already held that the employees who were in service as on 01.01.2004 and were later on absorbed or regularized, are entitled for the old pension scheme. The said judgment has attained finality. The facts of the present case are duly covered by the ratio laid down by the above said judgment. It is admitted case that the husband of the petitioner was appointed in the year 1993 as Special Police Officer and later on absorbed as a Constable on 09.06.2010 and therefore, husband of the petitioner was entitled to be considered under the old pension scheme and not under the new pension scheme, which is being taken into consideration for the rejection of the case of the petitioner. The impugned order passed by the respondent is contrary to the law laid down by this Court in **Harbana Lal's case (supra)**.

Order dated 24.08.2016 Annexure P-3 is set aside. A direction is given to the respondents to compute the pensionary benefits for which the petitioner was entitled for on account of service rendered by her late husband from 1993 till 09.07.2011. The said exercise be completed within a period of three months from the receipt of copy of this order. The actual payment should also be made within the above said period. In fact, the

order passed is contrary to the law, therefore, the petitioner will also be entitled for interest @ 9% per annum from the date she became entitled for grant of family pension.

The writ petition is allowed, in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

November 20, 2018
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No