

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8094-2017 (O&M)
Date of decision: - 04.12.2018

Ishwar Devi @ Ishwar Kaur

....Petitioner

Versus

The Secretary to Govt. Punjab, Department of Agriculture, Mini
Secretariat, Chandigarh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. P.C. Arora, Advocate,
for the petitioner.

Mr. Sandeep Vermani, Additional Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

CM-10378-CWP-2018

Application is allowed, as prayed for.

Rejoinder to the reply filed by the respondents No.1 to 3, is
taken on record.

CWP-8094-2017

In the present case, the petitioner has claimed the grant of
family pension after the death of her husband, namely, Sh. Mohinder
Singh alongwith arrears.

As per the averments made in the present petition, the
petitioner claims to be the widow of Sh. Mohinder Singh, who was

working in the Agriculture Department. The said Sh. Mohinder Singh retired after attaining the age of superannuation on 31.07.2007 and he was granted all the pensionary benefits as well as the pension. Sh. Mohinder Singh unfortunately died on 27.06.2016. After the death of Sh. Mohinder Singh, the petitioner filed an application for the grant of family pension. On the request made by the petitioner, she received a communication from the respondents/department that when late Sh. Mohinder Singh submitted the list of family members, he had only submitted the detail of Yashpreet Pal Singh as his son and there is no mention of the petitioner, as being his wife and moreover there is no joint photograph on the record of the department and therefore, under these circumstances, it cannot be verified whether the petitioner is the legally wedded wife of Sh. Mohinder Singh, who died on 27.06.2016.

Alongwith the present petition, the petitioner has attached a judgment passed by the Additional District Judge, Patiala in case of a Hindu Marriage Act Case No.47, decided on 22.01.1987. From the said order it transpires that Sh. Mohinder Singh had filed a petition under Section 13 of the Hindu Marriage Act for the dissolution of the marriage and the petitioner Ishwar Devi was arrayed as a respondent being the wife, from whom the divorce was being sought by Sh. Mohinder Singh. A bare perusal of the said judgment would show that Sh. Mohinder Singh in his petition admitted that he married Ishwar Devi on 16.11.1964 and out of the wedlock, two sons, namely, Yashpreet Pal Singh and Pritpal were born. The said divorce petition filed by Sh. Mohinder Singh was dismissed on 22.01.1987 much before Sh. Mohinder Singh retired from

service in the year 2007. This judgment has been attached to show that even as per the admission of Sh.Mohinder Singh, and the record of the competent Court of law, the petitioner was the legally wedded wife of Sh. Mohinder Singh. Further, the petitioner has attached a mark sheet of Yashpreet Pal Singh, wherein also name of the father has been mentioned as Mohinder Singh and name of mother has been mentioned as Ishwar Kaur.

The respondents in their reply has mentioned that as per the record which the department has with them, there is only one nominee, whose name has been mentioned and i.e. Yash Preet Pal Singh, who is son of Sh.Mohinder Singh and there is no details of the wife in any of the record and therefore, the department is unable to verify the facts as to whether, the petitioner is the legally wedded wife of Mohinder Singh so as to make her entitled for the family pension after the death of Sh. Mohinder Singh on 27.06.2016.

Further, during the course of the arguments, counsel for the respondents states that no such document i.e. the judgment given by the competent court of law in respect of the divorce petition between Sh.Mohinder Singh and the petitioner as well as the mark sheet, which the petitioner has attached as Annexures P-3 and P-5 respectively with the present petition, has been supplied to the department. In the absence of the same, the action of the respondents in not releasing the pension in favour of the petitioner is perfectly valid and legal.

I have heard the learned counsel for the parties and gone through the record.

From the record, which has been presented before this Court, it can be safely presumed that the petitioner is the wife of Sh. Mohinder Singh. Due reliance can be placed upon the order of competent Court of Law where the divorce proceedings between petitioner and Sh. Mohinder Singh were filed and the judgment given by the competent Court of law wherein the petitioner has been recorded as the wife of Sh. Mohinder Singh. Rather, Sh. Mohinder Singh himself admitted the petitioner to be the legally wedded wife since 16.11.1964 and as the divorce petition was dismissed, it can be safely said that the petitioner was the legally wedded wife of Sh. Mohinder Singh. Merely that there is no record with the respondents/department, is no ground to deny a benefit for which the petitioner is entitled for under the Punjab Civil Services Rules i.e. for the family pension.

As the petitioner has not submitted these documents with the department, but has only attached the same with the present writ petition, I deem it proper to dispose of the present petition, directing the respondents/department to take into consideration the Annexures P-3 and P-5, attached with the present petition, i.e. the mark sheet issued in favour of the son of the petitioner wherein the petitioner has been depicted as the mother as well as the judgment of Additional District Judge, Patiala dated 22.01.1987 wherein the petitioner has been depicted as the wife of Sh.Mohinder Singh.

After taking into consideration all the above-mentioned facts, let the respondents/department pass an appropriate order considering the claim of the petitioner for the grant of family pension. Let the order be

passed within a period of three months from the date of receipt of certified copy of this order. In case it is found that there is no impediment in the release of the family pension to the petitioner, the same shall be released to her from the date it became due along with interest @ 6% per annum.

(HARSIMRAN SINGH SETHI)

JUDGE

December 04, 2018

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Whether reasoned/speaking?

Yes

Whether reportable?

No