

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2248 of 2015 (O&M)

Date of Decision:- 19.01.2018

State of Punjab and others

.....Petitioners

Versus

Jujar Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rana Harjasdeep, AAG, Punjab.

Mr. Ajay Pal Singh Rehan, Advocate
for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the present appeal, substantial question of law for consideration is whether Rule 6.17 (3) of Punjab Civil Service Rules Volume II read with the circular dated 16.07.1998, which has been given effect from 01.01.1996 have been considered by Trial Court and Appellate Court or not?

[2] Undisputedly, disputed facts are that deceased employee died on 04.04.1990 while rendering 1 year, 2 months and 8 days service. Respondents' claim for family pension is permissible under Rule 6.17 (3) or not and further, circular dated 16.07.1998 would be applicable to the respondents or not are the questions. Rule 6.17 (3) is reads as under: -

*“Rule 6.17 (3) “Family” for purposes of this Scheme
will include the following relatives of the Government
employee:*

(a) wife in the case of a male Government employee and husband in the case of a female Government employee;

(b) a judicially separated wife or husband, such separation not being granted on the ground of adultery, provided the marriage took place before the retirement of the Government employee and the person surviving was not held guilty of committing adultery; and

(c) sons up to the age of twenty-five years.

(d) unmarried daughters upto the age of twenty-five years”.

[3] As on 04.04.1990, when Mr. Harminder Singh, Constable-deceased employee died, Rule 6.17 (3) was applicable. The said provision do not provides for extending benefits to the parents of the deceased employee. In other words under the definition of family, parents were not included. Further, for the first time by means of circular on 16.07.1998, Government included parents in the definition of family while giving effect from 01.01.1996.

[4] In view of these legal position and the fact that the deceased employee died on 04.04.1990 much prior to issuance of circular which has been given effect from 01.01.1996, Trial Court and Appellate Court erred in extending benefits of family pension to the parents of the deceased employee.

[5] Learned counsel for the appellant relied on the decision of Hon'ble the Supreme Court reported in “**State of Punjab and another v. Devinder Kaur, 1999 (9) SCC 12**”, wherein Supreme Court has upheld the contention of the State of Punjab that circular dated 16.07.1998 cannot be given effect prior to 01.01.1996.

[6] Per contra, learned counsel for the respondents relied on the decision of this Hon'ble High Court reported in “**State of Punjab and others v. Vasdev Singh 2007 (2) S.C.T. 540**”, to contend that circular could be given effect prior to 01.01.1996.

[7] Heard learned counsel for the parties.

[8] Deceased employee died on 04.04.1990, whereas inclusion of parents in the definition of family for the first time introduced w.e.f. 01.01.1996 vide circular dated 16.07.1998. Further, under Rule 6.17 (3), parents were not included for the purpose of family. Therefore, as on 04.04.1990, parents were not included in the definition of family. Consequently, respondents are not entitled to benefit of family pension or any monetary benefits due to the death of the deceased employee.

[9] Hon'ble the Supreme Court in the case of “**State of Punjab and another v. Devinder Kaur**”, held that circular is crystal clear that it will be given effect from 01.01.1996. Therefore, decision of this Court in the case of “**State of Punjab and others v. Vasdev Singh**” is distinguishable, since this Court has not taken note of the decision of Hon'ble the Supreme Court in the case of Devinder Kaur (supra). Thus, Appellate Court erred in extending the benefit of family pension to the respondents. Accordingly, Appellate Court's order dated 17.10.2014 is set aside.

[10] Appeal stands allowed.

(P.B. BAJANTHRI)
JUDGE

January 19, 2018
sahil soni

Whether speaking/reasoned:- **Yes / No**

Whether Reportable:- **Yes / No**