

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No. 1371-CWP-2017 in/and
CWP No. 12662 of 2006
Date of Decision : 29.05.2019

Roshni Devi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Ms. Neha Jain, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Harsimran Singh Sethi, J.(Oral)

CM-1371-CWP-2017

The present application has been filed by the applicant-petitioner for disposal of CWP No. 12662 of 2006 in view of Circular dated 17.01.2013 (Annexure A-1).

Keeping in view the averments made in the application, the same is allowed and main case is taken up on Board today itself for hearing.

CWP-12662-2006

In the present writ petition, the claim of the petitioner is that in respect of the service, which her late husband, namely, Girdhari Lal had rendered with the Department of Irrigation and Power, Punjab, petitioner has not been paid the family pension on the ground that petitioner is not entitled for the family pension as petitioner is already getting a pension from Army.

As per the facts mentioned in the writ petition, husband of the petitioner had rendered service with the Army for which he was getting pension. After the husband of the petitioner was relieved from the Army, he joined the Department of Irrigation and Power, Punjab and kept on working there till he attained the age of superannuation on 31.01.1994. After the retirement, husband of the petitioner was granted pension by the respondent-Department which he was receiving continuously till he, unfortunately, died on 29.01.1999.

After the death of her husband, petitioner informed the respondents that as her husband has died, she shall be granted the family pension. Petitioner was not granted the family pension on the ground that her husband was also getting a pension from the Army and after the death of her husband, petitioner is getting family pension from the Army and an employee is not entitled to get two family pensions and, therefore, the case of the petitioner for the grant of family pension by the State of Punjab was not acceded to.

In the present writ petition, the claim of the petitioner is for the grant of family pension in respect of the service which the late husband of the petitioner had rendered with the respondent-Department. During the pendency of the writ petition, a Notification was issued by the Government of India on 17.01.2013 (Annexure A-1), wherein, it was mentioned that an employee is entitled for two pensions and consequently, the legal heirs will also be entitled for two family pensions. The said Notification issued by the Government of India was also adopted by the Government of Punjab w.e.f. 23.06.2016.

In an affidavit, which has been filed by the respondents on

28.04.2017, respondents have stated that keeping in view the adoption of the Notification by the Government of Punjab on 23.06.2016, petitioner has also become entitled for two family pensions and there is no objection for release of the same. The relevant portion of the affidavit filed by Sh. Ashok Kumar, District Treasury Officer, Hoshiarpur is as under:-

- “1. That it is humbly prayed that the respondent has never denied the payment and is always ready to do the needful.*
- 2. That Sh. Girdhari Lal was drawing his pension from this Treasury vide PPO No. 83332/Pb. He was also in receipt of service pension from Defence side and expired on 29.01.1999. Smt. Roshni Devi w/o Late Sh. Girdhari Lal submitted an application dated 22.09.1999 that she wants to draw her family pension from Defence side and her civil family pension from Punjab side may be stopped. This office stopped her family pension against PPO No. 83332/Pb. and certificate regarding Last-payment of family pension to Smt. Roshni Devi issued vide this office letter No. 6079 dated 22.09.1999 and she started drawing her family pension from defence side.*
- 3. That after stoppage of family pension the both halves of PPOs were sent to AG Punjab Chandigarh vide this office letter No. 2829 dated 11.07.2006 for record.*
- 4. That the Dual Family Pension was started by Punjab Govt. vide Notification No. N.5/1/13-2RB/780838 dated 23.06.2016 w.e.f. 23.06.2016.*
- 5. That after the Notification dated 23.06.2016 issued by the Punjab Government the Family Pensioner has never contacted to this office for dual pension.”*

On the basis of the said affidavit, learned counsel for the respondents argues that petitioner has never approached the department for release of the family pension in respect of the service rendered by her late

husband with the State of Punjab.

Learned counsel for the petitioner, on the other hand, states that once the respondents have found the petitioner entitled for the family pension in respect of the service rendered by her late husband, petitioner will submit all the required documents, which are necessary for the release of the family pension within a period of one month of the information of those documents supplied to her by the respondents and time bound direction be given to the respondents to finalize the case of the petitioner for the grant of family pension alongwith arrears from the date, petitioner became entitled for i.e. 23.06.2016 onwards.

Keeping in view the above, a direction is issued to the respondents to convey the petitioner the detail of documents which are required for the release of family pension within a period of one month from the receipt of certified copy of this order and petitioner will fulfill those requirements within a period of next one month and the family pension for which the petitioner has been held entitled for by the respondents themselves in pursuance to the adoption of the Notification of the Government of India dated 17.01.2013. Let the pension be released to the petitioner within a period of two months thereafter. The arrears for which the petitioner will be found entitled, shall also be released within the above said period of two months.

Writ petition stands disposed of in above terms.

May 29, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? *Yes*
Whether reportable? *Yes*