

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

**211**

**CWP No.19152 of 2018  
Decided on : 29.11.2019**

Smt. Bittu

... Petitioner

Versus

Union of India and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA**

Present: Mr. Balbir Singh Jaswal, Advocate  
for the petitioner.

Ms. Anita Balyan, Advocate  
for respondent No.1.

None for respondents No.2 & 3.

**G.S. Sandhawalia, J. (Oral)**

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks quashing of the order dated 28.02.2018 (Annexure P-11) passed by respondent No.3, whereby the entry of her name as the second wife of late Ram Parkash has been rejected.

The reason to deny as such, to enter the name of the petitioner in the pension papers is on account of the fact that her husband had earlier approached this Court and had not challenged the order dated 02.12.2014 (Annexure P-6) whereby the speaking order had been passed by the predecessor of the said respondent. It was held that since the first wife had expired on 12.02.2002 (Annexure P-1) and the marriage had taken place during service on 15.01.2007, but the office only had been intimated on 04.05.2015 after 5 years from the date of retirement and 13 years after the

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death of his wife, there was delay and laches as such and no changes could be effected at this stage.

The said reasoning on the face of it is perverse. The perusal of the paper-book would go on to show that Ram Parkash was serving with the respondents as a Sewadar and expired during the pendency of the representations on 12.05.2018. He was married with Suhagwanti, who had expired on 12.02.2002 (Annexure P-1). As per the marriage certificate registered on 16.03.2015, the marriage had taken place on 15.01.2007 (Annexure P-3).

Aggrieved by the name of the second wife not being entered in the pension papers Ram Parkash had approached this Court by filing **CWP No.10807 of 2014 'Ram Parkash Vs. Union of India and others'**, which was disposed off on 28.05.2014 (Annexure P-5) with the directions to pass a speaking order preferably within a period of 3 months. In compliance with the said order documents had been submitted by Ram Parkash, but since the marriage certificate was not submitted, the request regarding nomination of the second wife was rejected on 02.12.2014

As noticed the marriage was registered at a subsequent point of time and, thereafter, he also made similar requests. Resultantly, the employee as such had again approached this Court by filing **CWP No.15085 of 2017**, which was disposed of on 14.07.2017 (Annexure P-10/A), wherein it was directed that his grievances in his representation dated 16.12.2016 (Annexure P-10) were to be looked into.

It was in such circumstances, the impugned order has been passed.

The defence as such of the respondents is based on the ground of delay and laches and the fact that the pension papers were prepared on 02.05.2014 after he had retired on 28.02.2010, but as he had failed to inform the department about the factum of death of his first wife and had belatedly approached the respondents, the claim as such has been denied. No legal provision has been relied upon regarding the statutory bar as such for the denial and it is settled principle that right to pension is a recurring right arising every month.

It is not disputed that the death of the first wife had taken place on 12.02.2002 and the marriage with second wife was 5 years later on 15.01.2007. It is not the case of the respondents that the petitioner had got married during the lifetime of the first wife and that the marriage is not legal in any manner. Merely because her husband had failed to inform the respondents expeditiously during his remaining service of 3 years that he had married, it is not justified to deny pension, on account of her valid marriage, which stands duly registered, as per Annexure P-3.

It is also a matter of fact that Ram Singh during his lifetime for redressal of his grievances had approached this Court twice by filing writ petitions. In such circumstances her claim as such cannot be discounted on the ground that she is not a valid wife. The impugned order, thus, does not stand legal scrutiny and is based on whims and fancies and can be termed as capricious and hereby quashed. Respondent

No.3 shall take steps to enter the name of the petitioner in the pension papers of her husband late Ram Parkash, within a period of 2 months from the receipt of the certified copy of this order. Thereafter, her entitlement for family pension will be duly considered from the date of the death of her husband i.e. 12.05.2018. The arrears be paid within a period of 3 months.

The writ petition is accordingly allowed with the above said directions.

**NOVEMBER 29, 2019**  
*Naveen*

**(G.S. SANDHAWALIA)**  
**JUDGE**

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |