

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

(116)

CWP-24084-2019

Date of Decision: September 03, 2019

Shabana

.. Petitioner

Versus

Punjab State Power Corporation Limited and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arvind Galav, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI, J.(ORAL)

As per the averments made in the present writ petition, the late husband of the petitioner was appointed in June, 2003 and his services were regularized by the respondents on 29.07.2010 and unfortunately, while in service, he died on 31.01.2019.

Learned counsel for the petitioner states that though, the late husband of the petitioner had approximately more than 15 years of service to his credit when he died, but the benefits accruing to him under the old pension scheme which was prevalent prior to 01.01.2004 including the grant of family pension to the petitioner, have not been extended on the ground that the services of the late husband of the petitioner were regularized only in the year 2010, when the new pension scheme was prevalent.

Learned counsel for the petitioner argues that keeping in view the law laid down by this Court in **CWP No. 2371 of 2010, titled 'Harbans Lal Vs. State of Punjab and others', decided on 31.08.2010,** which has already attained finality upto the Hon'ble Supreme Court, the employees, who were in service prior to 01.01.2004, though their services might have been regularized after the said date, are entitled to be considered for the benefits under the old pension scheme and therefore, as the late husband of the petitioner was in employment since June, 2003, the petitioner will be

entitled for the benefits under the old pension scheme and not under the pension scheme which is prevalent w.e.f. 01.01.2004. Hence, respondents are liable to be directed to grant the petitioner the benefits under the old pension scheme including the family pension in respect of the service rendered by her late husband.

Learned counsel for the petitioner states that for the relief which has been claimed in the present writ petition, the late husband of the petitioner along with other similarly situated employees for considering them under the old pension scheme, have served the respondents with a legal notice dated 08.12.2018 (Annexure P-17) which is still pending consideration with the respondents and the petitioner will be satisfied, at this stage, in case a time bound direction is issued to the respondents to decide the said legal notice by passing an appropriate speaking order.

Without commenting upon the merits of the case or about the entitlement of the petitioner for the relief which has been claimed by the late husband of the petitioner in the legal notice dated 08.12.2018 (Annexure P-17), the present writ petition is disposed of with a direction to the respondents to decide the legal notice dated 08.12.2018 (Annexure P-17), within a period of three months from the receipt of certified copy of this order.

In case, it is found that the petitioner is entitled for any monetary benefits after the decision of the legal notice, the same should also be paid to her within three months thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

September 03, 2019
harsha

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