

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

**CWP No.7945 of 2020 (O&M)
Date of decision : June 09, 2020**

Tarlochan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Anil Rana, Advocate for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

The petition has been taken for hearing through video conference due to Covid-19 pandemic.

In the present writ petition, the grievance which is being raised by the petitioner is that this Court while deciding CWP No.15543 of 2008 on 29.04.2010 directed that the wife of the petitioner, namely, Sarabjit Kaur be appointed as a Supervisor with effect from the date respondent Nos.3 and 4 in the said writ petition were appointed. While deciding the said writ petition, the benefits of arrears were declined but the pay of the wife of the petitioner, namely, Sarabjit Kaur was to be fixed from the date of the appointment of respondent No.4 in the said writ petition.

Learned counsel for the petitioner argues that keeping in view the said direction given by this Court on 29.04.2010 while deciding CWP No.15543 of 2008, the wife of the petitioner, namely, Sarabjit Kaur was appointed as a Supervisor in the year 2011 but from the year 1997 when respondent No.4 in CWP No.15543 of 2008 was appointed and her pay was also fixed on the notion that she was appointed in 1997. Learned counsel for the petitioner further argues that though, the wife of the petitioner was

actually appointed in the year 2011 but as the said appointment related to the year 1997, the wife of the petitioner, namely, Sarabjit Kaur was entitled for consideration of her case for the grant of pensionary benefits under the Old Pension Scheme but the said benefits are being declined after Sarabjit Kaur unfortunately died in December, 2019, by simply stating that once the appointment of said Sarabjit Kaur as a Supervisor was made in the year 2011, she was to be governed by the New Pension Scheme which had come into force w.e.f. 01.01.2004, ignoring the fact that for all intents and purposes, she was appointed w.e.f. the year 1997.

Learned counsel for the petitioner also argues that the said action of the respondents is contrary to the directions given by this Court while deciding CWP No.15543 of 2008 as the wife of the petitioner, namely, Sarabjit Kaur, was treated to be appointed from 1997 for all the intents and purposes and therefore, the claim of said Sarabjit Kaur for the grant of pensionary benefits is to be considered under the Old Pension Scheme and not under the New Pension Scheme, which came into effect from January, 2004.

Learned counsel for the petitioner submits that before Sarabjit Kaur died in December, 2019, she had submitted a representation to respondent Nos.2 and 3 on 30.11.2019 (Annexure P-19) claiming the pensionary benefits under the Old Pension Scheme. Learned counsel for petitioner further submits that after the death of Sarabjit Kaur, the petitioner has submitted another representation dated 23.01.2020 (Annexures P-18) to respondent Nos.2 and 3 claiming the same benefit. Both the representations are still pending consideration before respondent Nos.2 and 3 and the

petitioner will be satisfied in case a direction is issued to respondent No.2 to decide the representations dated 30.11.2019 and 23.01.2020 (Annexures P-19 and P-18 respectively) in a time bound manner by passing an appropriate speaking order, in accordance with law.

Notice of motion.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab, who has also joined proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the State and raises no objection in deciding the claim of the petitioner and his late wife Sarabjit Kaur as being made in the representations dated 30.11.2019 and 23.01.2020 (Annexures P-19 and P-18 respectively) in a time bound manner by passing a speaking order as per the settled principle of law.

In view of the request made, without expressing any opinion on the merits of the case or on the claim being made by the petitioner, respondent No.2 is directed to decide the representations dated 30.11.2019 and 23.01.2020 (Annexures P-19 and P-18 respectively), by passing a speaking order within a period of two months from the date of receipt of copy of this order. In case after the decision, it is found that the petitioner is entitled for any monetary benefit, the same shall also be released to him within a period of next two months.

Present writ petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

June 09, 2020

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No