

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-12411-2020 (O&M)
Date of Decision:-15.10.2020

Smt. Ajit Rani ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rakesh Nagpal, Advocate for the petitioner.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks quashing of order dated 6.7.2020 (Annexure P-5) passed by Commandant 3rd Battalion, Haryana Armed Police, Hisar vide which a legal notice issued on behalf of the petitioner has been considered and declined.
2. Facts necessary to notice for disposal of this petition are that one Har Krishan Lal, who was serving as Deputy Superintendent Officer (DSO) in Haryana Armed Police, expired on 14.12.2019 leaving behind his widow namely Smt. Sumitra Devi (respondent No.6). It is the case of petitioner that she had also solemnized marriage with Har Krishan Lal with the consent of his first wife Smt. Sumitra Devi as Smt. Sumitra Devi was unable to conceive and give birth to a child. The said marriage is stated to have been solemnized in the year 1985 and two children were also born out of the said

wedlock. It is further the case of petitioner that the petitioner had also been awarded maintenance @ ₹350/- per month in terms of provisions of Section 125 Cr.P.C. vide order dated 25.7.1985 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Sirsa.

3. The learned counsel for the petitioner submits that the deceased Har Krishan Lal had executed a Will/affidavit dated 4.3.2016 with regard to the disbursement of the family pension/retiral benefits, wherein he bequeathed 90% of his pension in favour of the petitioner, while the remaining 10% was bequeathed in favour of Smt. Sumitra Devi (respondent No.6). It has further been submitted that infact the petitioner, on humanitarian grounds, is willing to share the family pension on account of death of her husband with Smt. Sumitra Devi (respondent No.6) to the extent of 50% and although a representation dated 24.5.2020 (Annexure P-4) in this regard was made to the official respondents, but to no avail and rather the respondents has now passed the impugned order dated 6.7.2020 (Annexure P-5), wherein the genuine claim of the petitioner has been absolutely declined.
4. The learned counsel for the petitioner has submitted that keeping in view the fact that the deceased had executed a Will/affidavit in favour of the petitioner to the extent of 90% of the pension and while also noticing that even the Court had granted maintenance in favour of the petitioner in terms of Section 125 Cr.P.C., the petitioner is entitled to the family pension on account of death of her husband Har Krishan Lal.
5. I have considered aforesaid submissions addressed before this Court.
6. It is not disputed that the petitioner is the second wife of Sh. Har Krishan Lal and that the petitioner had solemnized marriage with Har Krishan Lal

during the subsistence of the first marriage of Har Krishan Lal with Smt. Sumitra Devi (respondent No.6), who is still alive. In these circumstances, the marriage of petitioner even if said to be with the consent of Smt. Sumitra Devi (respondent No.6), cannot be given the colour of a valid marriage. In other words, the petitioner cannot be said to be a legally wedded wife of Har Krishan Lal (deceased).

7. Under the applicable pension rules, it is legally wedded wife, who would be entitled to the family pension. In case there is an understanding between the legally wedded wife and any other person, the same would not affect the aforesaid provision. The respondents having considered the legal notice and having passed an order turning down the claim of the petitioner mainly on the ground that the petitioner is not the legally wedded wife of deceased Har Krishan Lal, no infirmity can be found in the impugned order dated 6.7.2020 (Annexure P-5). Finding no merit in the petition, the same is hereby dismissed.

15.10.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No