

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

**1. CWP No.11496 of 2017 (O&M)
Date of decision : February 10, 2020**

Sweety Sharma Petitioner

Versus

State of Punjab and others Respondents

2. CWP No.21225 of 2017 (O&M)

Prem Prabha and others Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sunit Chadha, Sr. Advocate with
Ms. Swati Verma, Advocate for the petitioner
in CWP No.11496 of 2017.

Ms. Arun Bansal, Mr. Anubhav Bansal and
Ms. Anju, Advocates for the petitioners
in CWP No.21225 of 2017 and
for respondent Nos.3 to 5 in CWP No.11496 of 2017.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, both the writ petitions details of which have been given in the heading of this order, are being decided as both the writ petitions involve the same question of law as well as similar facts. For the purpose of the present order, the facts are being taken from CWP No.11496 of 2017.

The claim of the petitioner in the present writ petition is that the petitioner is wife of one Shri Nirmal Sharma, who was working as a Circle Head Draftsmen in the Irrigation Department of the Government of Punjab, who unfortunately died while in service on 20.11.2016. The claim of the

petitioner is that she being the wife of the deceased employee, she is entitled for the service benefits after the death of her husband as well as job on the compassionate ground.

The claim of the petitioner is being contested by the private respondents (petitioners in CWP No.21225 of 2017), who are mother and children of deceased employee Shri Nirmal Sharma. Respondent Nos.3 and 4 are children from the first wife of deceased Shri Nirmal Sharma, from whom the deceased employee got divorced through a mutual consent decree on 19.12.2000 (Annexure P-2). As per the private respondents, there was no marriage solemnized between Nirmal Sharma and the petitioner and therefore, the petitioner is not entitled for any benefit, in respect of the services which Nirmal Sharma rendered with the Government of Punjab.

The writ petition, which the private respondents have filed, has been tagged with the present writ petition, is also being disposed of with this writ petition as, they are also claiming the release of pensionary benefits in respect of the services rendered by Late Shri Nirmal Sharma.

As there are disputed questions of law involved, the State of Punjab played safe and did not release the benefits to the either of the petitioner on the ground that first the legal heir certificate be produced after which, the claim of the eligibles will be considered for the release of the benefits, in respect of the services rendered by late Shri Nirmal Sharma.

The prayer in both the petitions is to direct the respondent-state of Punjab to release the benefits in their favour, ignoring the claim of the others. As there are disputed questions of facts, prayer as made in both the writ petitions cannot be accepted. The State of Punjab is well within its

jurisdiction, in the facts and circumstances of this case, to demand the legal heir certificate, so as to decide the eligibility and entitlement of each, who is claiming the benefits, in respect of the services rendered by late Shri Nirmal Sharma, before the benefits are released.

Both the aforesaid writ petitions are disposed of with liberty to the parties to raise their claim before the State of Punjab by producing the legal heir certificate and after the legal heir certificate(s) is/are produced, the State of Punjab, on the basis of the facts and circumstances of the case, will pass appropriate order deciding the eligibility of the petitioners (both the writ petitions) and thereafter, release the benefits to the ones, who are held entitled for the release of the benefits by the State of Punjab.

As per the averments made in the writ petition, the petitioners in CWP No.21225 of 2017 have already got a legal heir certificate in their favour, which has already been submitted with the authorities. That being so, the petitioner in CWP No.11496 of 2017 is also granted liberty to produce the required legal heir certificate before the authorities and upon presentation of the same, appropriate consideration will be given by the respondent-State to adjudge the admissibility of all (petitioners of both the writ petitions), who are claiming the benefits after the death of Shri Nirmal Sharma, in respect of the services rendered by him. The petitioner in CWP No.11496 of 2017 is granted three months time to produce the legal heir certificate before the competent authority and after the submission of the same, the consideration of the claims as directed, will be undertaken by the competent authority in the Department of Irrigation for the release of the benefits to the ones, who are found entitled by the Department. The benefits

will be released within a period of three months after the order declaring the entitlement is passed by the competent authority.

Both the writ petitions are disposed of in abovenoted terms.

(HARSIMRAN SINGH SETHI)
JUDGE

February 10, 2020

sarita	
Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No