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

(207) **CWP No. 6000 of 2016
Date of Decision : 29.01.2020**

Daljit Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Saurav Verma, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance of the petitioner is against an order dated 10.09.2015 (Annexure P-8), whereby the petitioner has been informed that after the death of the petitioner, only 50% of the family pension will be paid to his second wife keeping in view Note I and II of Rule 6.17 of the Punjab Civil Services Rules.

After notice of motion, respondents have filed the reply. In the reply, while relying upon Note I and II of Rule 6.17 of the Punjab Civil Services Rules, it has been averred that wife of petitioner, namely, Kulwinder Kaur will be entitled to only 50% of the share of family pension being second wife of the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question of grant of the family pension keeping in view Rule 6.17 of the Punjab Civil Services Rules including the notes mentioned therein, has already been considered by this Court more than once. This Court while deciding CWP No. 3359 of 2008 titled as ***Ram Dulari Vs. State of Haryana and others,*** on 03.07.2009 as well as CWP No. 8115 of 2010 titled as ***Harpal Kaur Vs. State of Punjab and others,*** decided on 03.07.2013 has held that the sole eligible claimant of the family pension will be entitled for 100% family pension and no part of it can be seized. The relevant paragraph of the judgment in ***Ram Dulari's case (supra)*** is as under:-

> *"11. The argument of the respondents is wholly misconceived when they argued that according to Note (i) of sub-clause (iii) of clause 4 of the 'Pension Scheme' once the minor children have stopped getting their share on account of attaining majority then the 50% share would cease. A perusal of Note (i) would show that the aforesaid provision is applicable only in a case where an employee is survived by more than one widow. In the present case there was only one widow on the date of death of Shri Mehar Singh. It has come on record that Shri Mehar Singh died on 27.8.1980 and his earlier wife Smt. Sona Devi had predeceased him in the year 1976 leaving behind three children, namely, Raj Singh, Manju Rani and Braham Singh, who were born on 5.1.1972, 20.3.1974 and 13.5.1974 respectively. Then he married the petitioner. It is further appropriate to mention that the petitioner also had a minor child, namely, Megh Raj, who was born on 8.12.1980. Therefore, Note (i) would have no application in the absence of at least two widows. The present is a case of one widow who*

> *had a minor child of her own and three minor children of her husband, born out of his wedlock with Smt. Sona Devi, who had predeceased him. The respondents have totally misdirected themselves in applying Note (i) to the case of the petitioner whereas the matter is covered by Note (ii) of sub-clause (iii) of clause 4 of the 'Pension Scheme', which does not contemplate ceasing of pension. Therefore, there is no substance in the argument of the respondents and the same is rejected."*

Further, in ***Harpal Kaur's case (supra)*** the State of Punjab filed an LPA and the Letters Patent Bench while deciding LPA No. 1434 of 2014 upheld the judgment of the Single Bench and reiterated that the seizing of 50% of the share under Note-1 and II of Rule 6.17 of the Punjab Civil Services Rules, is arbitrary and the State is liable to pay 100% family pension, which can be shared by number of legal heirs or can be allowed in favour of the sole eligible legal heir.

Keeping in view the above recorded facts and law, the order dated 10.09.2015, which has been passed by the respondents to the effect that after the death of the petitioner, his wife, who is the sole claimant of the family pension, will only be entitled for 50% of the share of the family pension, is contrary to the settled principles of law. The said order has been passed without considering the settled principle of law settled by this Court in ***Ram Dulari's case (supra)*** as well as ***Harpal Kaur's case (supra).*** Therefore, order dated 10.09.2015 (Annexure P-8) is hereby set-aside.

As the petitioner is alive, the question of grant of family pension does not arise, at this stage. The grant of family pension is premature at this stage and hence, no order needs to be passed by this Court with regard to the same.

Writ petition is disposed of in above terms.

January 29, 2020 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether reasoned/speaking? *Yes*
Whether reportable? *Yes*