

CM-16911-CWP-2011 in/and
CWP-2518-2010

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-16911-CWP-2011 in/and
CWP-2518-2010
Date of decision: 19.02.2020

Smt. Kanta Devi

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ravinder Malik, Advocate
for the petitioner.

Mr. Randhir Singh, Advocate for
State of Haryana.

RITU BAHRI, J. (Oral).

CM-16911-CWP-2011

Application for early hearing of case is rendered infructuous and the same is disposed of as such. The main case is taken up on Board today itself for disposal.

CWP-2518-2010

By this petition, the petitioner is seeking quashing of order dated 25.08.2009 (Annexure P-8) whereby her claim for getting financial assistance w.e.f. 01.01.2006 has been rejected.

The brief facts of the case are that petitioner's husband was working as Agriculture Development Officer with the respondents and expired on 19.04.2005 at the age of 48 years while in service and petitioner was given family pension vide PPO No. 35421-F/HR dated 05.08.2005

(Annexure P-1). The petitioner made an application dated 11.10.2006 (Annexure P-2) for compassionate assistance under Haryana Compassionate Assistance to the dependent of deceased Government Employee” Rules 2006 (for short 'the Rules'). After considering the application of the petitioner (Annexure P-2), respondent No. 3 sanctioned payment of monthly financial assistance for a period of 7 years w.e.f. 01.08.2006 to the petitioner vide order dated 02.11.2006 (Annexure P-3). However the respondents did not release the financial benefits to her as per Rules on the ground that the her husband died on 19.04.2005 and the PPO/GPO had already been issued by the office then dependent cannot opt for new scheme. The petitioner approached this Court by way of filing CWP-10552-2007 which was allowed vide order dated 30.10.2007 (Annexure P-5). The respondents challenged this order by way of filing SLP-7482-2008. The Hon'ble Supreme Court dismissed the same vide order dated 15.05.2008 (Annexure P-6). After filing of contempt petition No. 237 of 2008 before this Court, the benefits under the above said Rules were released to the petitioner in the relevant pay band of Agriculture Development Officer w.e.f. 01.08.2006. The grievance of the petitioner is that respondents are not releasing the revised pay scale after recommendation of 6th Pay Commission/Haryana Civil Services Revised Pay Rules, 2008 (hereinafter referred to as Rules, 2008) by the Government, whereby the pay band of all the employees of the respondents have been increased w.e.f. 01.01.2006.

Learned counsel for the petitioner has referred to orders dated 18.07.2007 and 02.06.2010 (Annexure P-9 colly) to contend that in case of one person namely Nirmala Devi whose husband late Sh. Satish Kumar had

died on 17.01.2004 she was granted benefit of monthly financial benefits as per Govt. notification dated 01.08.2006 and after revision of pay scale w.e.f. 01.01.2006, her pay has been refixed in revised pay structure vide order dated 02.06.2010. A perusal of order dated 02.06.2010 at page 41 of the paper book shows that Nirmala Devi had approached this Court by way of CWP-1349-2007 which was allowed on 30.08.2007, the Department accorded sanction of monthly financial assistance to Smt. Nirmala Devi w/o late Sh. Satish Kumar, Beldar for the period 01.08.2006 to 31.07.2021 and on revision of pay scale w.e.f. 01.01.2006 the pay of late Sh. Satish Kumar, Beldar was also revised which is as under:-

Sr. No.	Name Designation & existing pay scale as on 1.1.2006	Existing Basic Pay as on 1.1.2006	Revised pay band/Grade pay admissible as on 1.1.2006	Pay fixed in revised pay band as on 1.1.2006 (Pay+ G.Pay)	Date of next increment	Pay after increment (Pay+G.Pay)	Remark
1.	Smt. Nirmala Devi w/o Sh. Satish Kumar, Beldar	2840	4440-7440+1300	5290+1300	-	5290+1300	Financial Assistance applicable w.e.f. 1.8.2006

A perusal of the above said chart shows that on 01.01.2006 Satish Kumar Beldar was getting basic pay of Rs. 2840. He was given revised pay band of Rs.4440-7440+1300 w.e.f. 01.01.2006 and his pay was again revised as per revised pay band of Rs.5290+1300 as on 01.01.2006 and monthly financial assistance was calculated on this pay scale from 01.08.2006 to 31.07.2021. The petitioner is seeking parity in her case as well; as her husband expired on 19.04.2005.

On notice of this petition, written statement has been filed on behalf of respondents No. 1 to 5. The respondents have placed on record copy of letter dated 06.09.2016 (Annexure R-1) whereby monthly financial

assistance to the petitioner has been calculated by taking basic pay as on 01.08.2006 to 31.07.2013 as Rs.10500+5250 (basic pay +DP) =Rs.15,750, medical of Rs.500/- and DA was given from time to time and after 01.08.2013, she is availing family pension as per Govt. Rules. The petitioner's husband was working as Agriculture Development Officer in the Agriculture and Farmers' Welfare Department. She was released family pension w.e.f. 20.04.2005 vide letter dated 05.08.2005 and she had been given benefit of financial assistance on the last pay drawn for 7 years w.e.f. 01.08.2006 to 31.07.2013 as per Rules, 2006. After completion of seven years, she is receiving family pension till date in accordance with the Rules, 2006. It is further stated therein that petitioner is not entitled for 6th Pay Commission/Revised Monthly Financial Assistance as per Haryana Civil Services (Revised Pay) Rules, 2008 since the respondents already released the family pension to the petitioner from 20.04.2005 to 31.07.2006 as the husband of the petitioner expired on 19.04.2005. The respondents have not denied orders dated 18.07.2007 and 02.06.2010 (Annexure P-9 colly) whereby the pay of the husband of Nirmala Devi was fixed in the revised pay band. The contention of the respondents is that the husband of the petitioner had expired on 19.04.2005 and he was not a Govt. employee when revised pay scales were implemented and the Department had granted benefit of dearness allowance to the petitioner on the monthly financial assistance from 01.08.2006 to 31.07.2013, the details of which are given in Annexure R-1.

Heard learned counsel for the parties.

The respondents are not denying orders dated 18.07.2007 and 02.06.2010 whereby the pay of the husband of Nirmala Devi was fixed in

the revised pay band (Annexure P-9 colly). Order dated 02.06.2010 passed in favour of Nirmala Devi had been rightly passed by extending the benefit of pay revision w.e.f. 01.01.2006. With respect to grant of benefit of pay revision in case of the petitioner, the stand taken in para 11 of the writ petition is that the husband of the petitioner got expired on 19.04.2005 and her husband was not a Government employee on that day the revised pay rules were implemented and the petitioner was getting benefit of dearness allowance on the monthly financial assistance from 01.08.2006 to 31.07.2013 as per Annexure R-1. A perusal of Annexure R-1 shows that from 01.08.2006 till 31.07.2013, benefit of dearness allowance had been granted by the Govt. from time to time. Even though benefit of dearness allowance had been granted to the petitioner till 31.07.2013, however, as per order dated 02.06.2010 (Annexure P-9), the revised pay scale of the husband's petitioner should have been made basis for calculation of the monthly financial assistance. The object of granting financial assistance is to give the pay which the husband would have drawn, had he been alive. The husband of the petitioner late Sh. Madan Pal died in the year 2005 while working as Agriculture Development Officer. Had he been alive, he would have got benefit of pay revision w.e.f. 01.01.2006 as well as dearness allowance.

Keeping in view above observations, writ petition is allowed. Order dated 25.08.2009 (Annexure P-8) is set aside and direction is being given to the respondents to grant benefit of Rules, 2008 and revise the monthly financial assistance to the petitioner after revising the pay of her husband w.e.f. 01.01.2006 and pass appropriate order within a period of

three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

19.02.2020
Divyanshi

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