

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

CWP-234-2021

Date of Decision: 27.01.2021.

Rumanpreet and others

...Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARUN MONGA

Present : Mr.Vipin Mahajan, Advocate,
for the petitioners.

Ms. Ambika Bedi, AAG, Punjab.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petition herein is under Article 226 of Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to release dues and other admissible service benefits like family pension, gratuity, leave encashment, GPF and GIC etc. of late Sh. Nirlep Singh, who died on 18.05.2020.

2. Learned counsel for the petitioners submits that prior to the marriage of late Sh. Nirlep Singh (DSP) with petitioner No.1, he was earlier married to one Gurdish Kaur. Out of earlier wedlock, one daughter namely, Navleen Kaur was born, who is presently 24 years of age and is settled in Canada for the last four years. Said earlier marriage was dissolved by mutual consent on 13.03.2006. After the divorce, petitioner No.1 solemnized marriage with late Nirlep Singh on 05.05.2006. During his life time deceased Nirlep Singh nominated his second wife Rumanpreet Kaur (petitioner No.1) as nominee in his GPF Account and other service benefits.

3. Learned counsel submits that SSP Ferozepur vide letter dated 17.07.2020 requested Deputy Commissioner, Amritsar to issue Succession /Dependent/LR Certificate so that admissible pension case can be remitted to the office of respondent No.5. However, Deputy Commissioner, Amritsar verbally stated that dependency certificate cannot be issued because deceased was married twice and also had one child from first marriage.

4. Learned counsel for the petitioners argues that without going into the admissibility of the claim of ex-wife and/or daughter born out of the previous wedlock of the deceased husband, the position in law is that current widow and the minor children are entitled to payment of family pension under Rule 6.17(4) of Punjab Civil Services Rules, Vol. II and GPF in accordance with Rule 13.7 of Punjab Civil Service Rules Vol.II. He argues that at worse, the proportionate claim of the daughter born out of the earlier wedlock can be withheld subject final outcome of her alleged claim. Said daughter is currently 24 years of age, permanently settled in Canada and though not dependent, but is pursuing her claim at the behest of her mother (ex-wife) by executing 'special power of attorney' in her favour. Yet, without any plausible reason, the widow and the minor children born out of the second wedlock are being deprived of their dues. In this aspect, legal notice dated 25.07.2020 (Annexure P-11) was also caused and the same has also not been adverted. Hence, the instant petition.

5. Learned counsel for the petitioners submits that he would be satisfied, at this stage, if a final decision is taken on the legal notice dated 25.07.2020 (Annexure P-11).

6. Notice of motion.

7. Ms. Ambika Bedi, AAG, Punjab, who has joined proceedings on service of advance copy of the petition, accepts notice on behalf of the respondent-State of Punjab.
8. Given the nature of order being passed, there is no necessity to seek return by any of the respondents, as no further proceedings and/or pleadings are required.
9. Without commenting on the merits of the case, the writ petition is disposed of with a direction to the competent authority to look into the grievance of the petitioners as per legal notice dated 25.07.2020 (Annexure P-11) and also by keeping in view the contentions stated in the present petition by treating the same as supplementary representation and decide the same by passing a speaking order, in accordance with law.
10. Let the needful be done within a period of 60 days from today.
11. Disposed of accordingly.

January 27, 2021

vandana

(ARUN MONGA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No