

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 24191 of 2016 (O&M)
Date of decision : April 19, 2021

Mohinder Kaur

....Petitioner

versus

State of Punjab and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ashish Gupta, Advocate, for the petitioner

Ms. Simran Grewal, AAG Punjab for the respondents

Fateh Deep Singh, J. (Oral)

The widowed petitioner Mohinder Kaur has come up before this Court through instant civil writ petition under Articles 226/227 of the Constitution of India seeking writ in the nature of mandamus directing the respondents to release regular family pension to the petitioner and interest on the delayed amount.

The case of the petitioner is that her husband now deceased Gurmukh Singh joined Public Works Department (B&R) as JE on 10.3.1954 and after putting in more than 37 years, 8 months and 21 days of service retired on 30.11.1991 after attaining the age of

superannuation from the rank of Sub Divisional Engineer. It is claimed that at the last leg of his service, the husband of the petitioner was served with charge sheet dated 11.11.1991 on the grounds that he has incurred excessive expenditure and caused monetary loss to the tune of Rs 11,29,981/- while executing works for the extension of Pathankot Bypass link with Mamoon-Madhampur road. As a consequence of service of this charge sheet almost 19 days prior to his retirement, retiral benefits of the deceased husband of the petitioner was stopped forcing him to invoke the jurisdiction of the civil court at Jalandhar. The civil suit filed by the husband of the petitioner was decreed and the appeal of the State too was dismissed vide judgment decree dated 19.3.2002 by the court of learned Additional District Judge, Jalandhar. The claim therein was payment of retiral benefits, increments and grant of less pension. The retiral benefits were released. It is on the ground that the respondents claim that a charge sheet was pending against the husband of the petitioner, he was only entitled to provisional pension till the pendency of the charge sheet. Another Civil Writ Petition No. 11468 of 2012, titled Gurmukh Singh vs State of Punjab and others, was filed by the deceased which was disposed of vide judgment dated 1.6.2012 directing the respondents to decide the legal notice of the then petitioner within four months by passing a speaking order. As a consequence of the same, respondent no. 3-the Engineer in Chief, Punjab PWD (B&R), Patiala wrote a letter dated

14.8.2012 asking respondent no. 1-the Secretary, Government of Punjab, Department of Finance to drop the charge sheet. It is in between the husband of the petitioner died and that is how what has led to the invocation of the present petition.

Though separate replies have been filed by respondents no. 1 to 3 and 4, however, the common plea is that the regular family pension has already been sanctioned to the petitioner vide letter dated 20.3.2017, Annexure R/1 issued by respondent no. 4-the Principal Accountant General (A&E) and that the arrears of the regular family pension too stands credited to the account of the family. However, it is the unison stand of the respondents that the husband of the petitioner was charge sheeted under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 regarding charges of misappropriation of funds to the tune of Rs 11,29,981/- and accept the fact that the disciplinary proceedings so initiated could not be finalized and did not reach logical conclusion. It is claimed by the respondents that on orders of the Court, lump sum amount of Rs 5,00,000/- was paid to Gurmukh Singh and it was revealed subsequently that a sum of Rs 2,21,895/- was paid in excess and claimed the excess amount to be recovered from the retiree. Terming each and every averment of the petition to be figment of lies, false and incorrect, sought dismissal of the petition.

Upon hearing counsel for the parties and perusal of the

records at length.

It is duly admitted as to the very employment of the husband of the petitioner, his death and the fact that the inquiry so initiated had to be dropped midway on account of death of the deceased retiree. It is also not displaced that the deceased had died on 26.10.2012. It is by no means differed that from 30.11.1991, the day the husband of the petitioner retired, his retiral benefits were not immediately released. Since on account of death of the deceased retiree, the inquiry so initiated had to be dropped and as has been fairly conceded at the bar by the learned State counsel on behalf of the respondents that nothing adverse is there against deceased Gurmukhj Singh, then SDE regarding these allegations of defalcation. The claim of the respondents that the department had sought consent of the retiree under Rule 2.2 of the Punjab Civil Service Rules Volume-II but on account of death in between of the retiree, the pension papers had to be resubmitted by the respondents as consent of Gurmukh Singh because of his death was not possible. It is the own stand of the respondents that on frivolous grounds of inadequacy of three attested photographs of the petitioner, no due certificates regarding dropping of charges could not be received by respondent no. 4 are matters which are within the complete domain of the respondents and they cannot hide under that guise. It is there in Rule 9.14 of the Punjab Civil Services Rules Volume-II that in respect of

government employee who is facing departmental action or in respect of whom departmental proceedings are pending, provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement or if the employee is under suspension on the date of retirement, up to the date immediately preceding the date on which he was placed under suspension shall be granted the provisional pension which would be authorised by the Accountant-General, Punjab and it is made clear under Clause (c) of the said Rule that no gratuity shall be paid to the Government employee until the conclusion of the departmental or judicial proceedings and issue of final order thereon. It is made clear that under sub-rule (2) of this Rule that provisional pension so made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government employee upon conclusion of such proceedings. Since the departmental proceedings did not reach their logical conclusion, so by no means the respondents can withhold the retiral benefits which are due to the retiree by virtue of his period of service so rendered and consequent upon his demise to his family under the Rules. It is there as per the claim of the respondents that petitioner family has been granted the family pension as per the entitlement. However, counsel for the petitioner has sought to agitate this claim on the grounds that the interest on the delayed payment has yet to be received. It is the own stand of the respondents as per their

letter Annexure P/3 that the alleged claim of Rs 5,08,140/- from the retiree has been recommended to be waived off as it cannot be recovered from his family members and has sought write-off this amount and therefore, there cannot be any legitimate claim by the respondents to this amount so raised in their reply.

In the light of the foregoing factual scenario, the petitioner happens to be the widow of the deceased retiree and therefore, is entitled to regular family pension under the Rules. The claim so raised by the petitioner is legal, right of entitlement which has become due to her upon demise of her husband retiree who has put in more than 37 years of service. Thus, in the light of the same, the respondents are directed to immediately release all service benefits of the retiree Gurmukh Singh and consequent upon his death full family pension to the petitioner as per Rules on account of service rendered by her deceased husband Gurmukh Singh SDE, if not released till date and to ensure payment of interest at the present Bank rate i.e. 6% per annum on all delayed payments as and when they became due. The present writ petition stands disposed of accordingly.

April 19, 2021
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No