

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

CWP 35888 of 2019 (O&M)

Date of Decision: September 20, 2021

Radha Rani ...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Ms. Moushami Mittal, Advocate
for the petitioner.

Ms. Simran Grewal, AAG, Punjab
for respondent No. 1.

Mr. H.S. Jugait, Advocate
for respondent No. 2.

Mr. Vikas Chathrath, Advocate
for respondents No. 3 and 4.

FATEH DEEP SINGH, J. (Oral)

One Madan Lal retired ASI died on 09.09.2012.

Consequent upon this he left behind his widow Radha Rani out
of whom deceased had three children who all are above 60
years of age. It is pertinent to mention here prior to this marriage

with Radha Rani, the deceased was married with Manjeet Rani who died earlier on 31st November, 2008 without any children. The factum of marriage with these two ladies was well reflected by the deceased in his pension papers and there is nothing to put to question this aspect of the matter or any dispute over the sharing of the pension. The State Bank of India Pension Processing Centre Chandigarh issued demand notice dated 02.08.2019 (Annexure P-6) for recovery of excess pension amount of Rs.3,64,451/- from the pension account of the petitioner widow being excess pension on account of drawing of excess basic pension from 10.09.2012 till 31.07.2019 of Rs. 3520/- in stead of Rs.1760/- and called upon the petitioner for deduction of Rs. 2000/- per month from her deposit account with the bank. Faced with situation the petitioner has knocked at the doors of this court in the instant civil writ petition under Articles 226/227 of the Constitution of India seeking writ in the nature of *certiorari/mandamus* praying for quashing of the

orders dated 02.08.2019 and 28.11.2019 (Annexure P-6- and P-9) seeking restraint for recovering of money from her pension.

Respondent No.1-Department in its reply though admitted the facts as detailed in the petition and claimed that vide Office Memo No. 10428/A dated 24.04.1983 pension of Madan Lal was sanctioned and released by the Accountant General Punjab, Chandigarh. alongwith death-cum-retirement gratuity and payment of commuted pension which was released to the retiree by his office after his retirement and admitted factum of two legal and valid marriages of Madan Lal ASI and denied for want of knowledge how the deductions were being undertaken.

Respondents No. 3 and 4 took the plea that petitioner was entitled for 50% of family pension even after the death of Smt. Manjeet Rani first wife of the retiree and took the plea that they are supposed to give pension commensurate with the share of the petitioner. It is claimed that since petitioner has

been paid 100% of the family pension in stead of 50% of pension, she is entitled to return the excess amount.

Heard Ms. Moushami Mittal, Advocate for the petitioner, Ms. Simran Grewal, AAG, Punjab for respondent No. 1, Mr. H.S. Jugait, Advocate for respondent No. 2 and Mr. Vikas Chathrath, Advocate for respondents No. 3 and 4 and perused the records.

The **Family Pension Scheme, Rule 6.17 of Punjab Civil Services Rules V-II** lays down entitlement to family pension by the heirs of deceased retiree. The definition assigned thereto **“Family”** is well enumerated therein which includes **“Wife”** in the case of male government employee. Furthermore, Note:1 to this provision is reproduced as below to lay emphasis:-

“Note:1 When a Government employee is survived by more than one widow, the pension will be paid to them in equal shares. On the death of a

widow, her share of pension will become payable to her eligible minor child, if at the time of her death, a widow leaves no eligible minor child, the payment of her share of the pension will cease”.

Reverting back to the present case, it is fairly conceded by the two sides that out of first marriage of retiree with Manjeet Rani deceased there was no surviving child and out of second marriage with Radha Rani the retiree had three children who all are above 60 years of age and, therefore, not entitled to claim of family pension under the Rules. The moot point that revolves around is the fact that upon the death of Madan Lal on 09.09.2012 he has left behind only one widow, i.e. petitioner Radha Rani as first wife Manjeet Rani had pre-deceased on 31.11.2008. Since at the relevant time consequent upon the death of retired employee petitioner happens to be the sole legal heirs being widow entitled to this family pension and, therefore, is definitely entitled to get her full

family pension as admissible to the dependents of a deceased.

Thus, the claim that the petitioner is entitled to 50% of the family pension is wholly misplaced and erroneous view as in the present case there is only one widow left behind by the deceased retiree and his earlier wife has pre-deceased him and children born out of the second marriage are turning senior citizens and, thus, not entitled to share in the family pension being not dependents under the pension scheme applicable.

There being only one person left to claim the family pension and thus, is entitled to 100% family pension and similar view was expressed by a Division Bench of this Court in the case of **Ram Dulari Vs. State of Haryana and others** (CWP 3359 of 2008, decided on 03.07.2009) and subsequently in LPA No. 1434 of 2014 (O&M) decided on 01.09.2014 titled as **the State of Punjab and others Vs. Harpal Kaur** though much fervent arguments are sought to be raised by Mr. Vikas Chathrath, learned counsel for respondents No. 3 and 4 but the same does

not impresses the Court much on account of foregoing established facts in the light of what has come up before this Court and conduct of the respondents in issuing impugned orders dated 02.08.2019 and 28.11.2019 (Annexures P-6- and P-9) are highly illegal and erroneous and needs to be set aside holding that petitioner is entitled to 100% pension of the retiree husband.

The petition stands allowed, accordingly.

September 20, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

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