

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

**CWP No.9911 of 2020
Date of Decision:-05.04.2022**

Paramjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Jasbir Singh Mohri, Advocate
for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab.

Mr. Naresh Chander, Advocate
for respondents No.6 and 7.

HARSIMRAN SINGH SETHI J.(Oral)

In the present case, the grievance of the petitioner is that her brother, namely, Constable Balwant Singh unfortunately died while in service, on 19.09.2010 but the benefits in respect of the service rendered by him are not being extended to the legal heirs, which is causing prejudice.

As per the averments made in the present petition, Shri Balwant Singh was appointed as SPO in the Punjab Police on 08.08.1994 and thereafter, was absorbed as Constable on 19.10.2009 and he continued working till, he died on 19.09.2010. Learned counsel for the petitioner argues that the late Balwant Singh had 15 years of service to his credit when

he died and therefore, the benefits in respect of the service rendered by him, are to be given to the legal heirs. Learned counsel for the petitioner submits that the deceased was unmarried and the petitioner as well as respondents No.6 and 7 are the siblings of the deceased and as respondents No.6 and 7 have relinquished their claim in favour of the petitioner, who was living with the deceased and was looking after him, is entitled for the service benefits in respect of the service rendered by late Balwant Singh being his legal heir.

Learned counsel for the respondents-State submits that the petitioner has to demonstrate that she was dependent upon the deceased so as to claim the benefit and further the services of the deceased were regularized as Constable on 19.10.2009 and he died within a period of one year on 19.09.2010 and therefore, keeping in view the fact that only Contributory Provident Fund Scheme was applicable w.e.f. 01.01.2004, no benefit is admissible to the petitioner.

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

In the present case, first of all the entitlement of the deceased has to be adjudicated with respect to whether the service benefits are to be extended to the legal heirs as per the Contributory Provident Fund Scheme, which was applicable w.e.f. 01.01.2004 or the deceased employee was entitled for computing the service benefits under the old pension scheme.

A Division Bench of this Court in ***CWP No.2371 of 2010 titled 'Harbans Lal vs. State of Punjab and others, decided on 31.08.2010***, held that where an employee was already in service on 01.01.2004 though

his/her services might have been regularized after the said date, the old pension scheme will be applicable. By applying the said ratio as the deceased Balwant Singh was in service since 08.08.1994, though his services were regularized in October 2009, his service benefits will be governed by the old pension scheme.

Further, it is a settled principle of law that the qualifying service for computing the benefit is to be adjudged keeping in view Rule 3.17(a) of the Punjab Civil Services Rules, which defines the qualifying service, according to which, the adhoc/daily wage service rendered by an employee prior to the date of regularization may be treated as qualifying service. That being so, the service rendered by Balwant Singh starting from 08.08.1994 till the date he died has to be taken as qualifying service for computing the benefits for which, the legal heirs of the deceased employee will become entitled for. Further, the petitioner who is sister of the deceased employee is lone legal heir of the deceased as the deceased was unmarried. The other two siblings of the deceased i.e. respondents No.6 and 7 already relinquished their claim in favour of the petitioner, who was living with the deceased and was looking after him. Besides this, no objection has been raised by the department to consider and grant the claim of the petitioner being the lone legal heir entitled for the service benefits in respect of service rendered by late Balwant Singh.

Keeping in view the above, the claim of the petitioner is allowed. The petitioner is held entitled for the service benefits in respect of the service rendered by late Balwant Singh starting from the year 1994 till the date he died.

Learned counsel for the petitioner submits that as the petitioner is now married, she is not pressing her claim for the grant of family pension in the present petition.

The petition stands partly allowed accordingly.

April 05, 2022
Vijay Asija

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No