

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

CWP-16283-2022 (O&M)
Date of decision : July 28, 2022

Amarjit Kaur

.....Petitioner

Versus

Punjab State Warehousing Corporation

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.P. Rana, Advocate for the petitioner.

LISA GILL, J.

Petitioner in this case seeks a direction to the respondents for release of family pension to the petitioner with effect from the date of death of her husband i.e. 31.10.1994 in terms of decision dated 17.10.2000 taken by the Board of Directors of the respondent – Punjab State Warehousing Corporation.

It is submitted that petitioner's husband was serving respondent – Corporation as Helper at State Warehouse, Barnala – I and he passed away while in service on 31.10.1994. Petitioner was granted appointment as Helper on compassionate basis and she joined service on 06.02.1995. It is stated that respondent – Corporation in exercise of powers conferred on it under section 42 of the Warehousing Corporation Act, 1962 and with previous approval of the State of Punjab introduced Pension and Gratuity Scheme vide notification dated 20.03.1996 w.e.f. 01.01.1986 at par with the State government employees. It is further stated that Board of Directors of the respondent – Corporation in its

decision dated 17.10.2000 decided to extend the benefit of family pension to legal heirs of such deceased employees who could not opt for the Pension and Gratuity scheme on the pattern of State Government employees w.e.f. 01.01.1986. Petitioner's claim for family pension was rejected vide order dated 21.03.2022 passed by the Managing Director of the respondent – Corporation being time barred. Petitioner served legal notice dated 18.08.2021 in this respect and when no response was forthcoming, CWP-26570-2021 was filed by the petitioner, which was disposed of on 23.12.2021 wherein the respondent – authorities were directed to consider said legal notice and decide the same in accordance with law, by passing a speaking order preferably within a period of one month from the date of receipt of certified copy of said order. Pursuant thereto, order dated 21.03.2022 was passed rejecting the petitioner's claim.

Aggrieved therefrom, present writ petition has been filed.

Learned counsel for the petitioner vehemently argues that respondents have acted in an illegal and arbitrary manner because as per applicable Rules and specifically sub-Rule 2 (i) of Rule 6.17 of Punjab Civil Services Rules (Volume II) Part 1, it was incumbent upon the respondent - authorities to have intimated the petitioner (family of the deceased employee) and asked for necessary documents. Therefore, once respondent – Corporation, it is urged, did not initiate the matter nor provided the required information or documentation, it cannot turn around and reject the petitioner's claim to be time barred especially keeping in view the fact that petitioner is an illiterate person. It is, thus, prayed that this petitioner be allowed.

Heard, learned counsel for the petitioner and have gone through the file with his able assistance.

It is matter of record that the petitioner's husband passed away on . 31.10.1994 while serving the respondent – Corporation as a Helper. It is also a matter of record that services of petitioner's husband were regularised w.e.f. 08.03.1991 and he unfortunately passed away while in service after few years on 31.10.1994. After the death of petitioner's husband, consent of family members of the deceased was called for release of pensionary benefits as per applicable rules at that time but there was no concurrence between the legal heirs. It was in accordance with succession certificate dated 03.08.1996 issued by the learned Civil Judge (Junior Division), Barnala that pensionary benefits were ultimately released vide communication dated 06.11.1996, in favour of four legal heirs of the deceased i.e. his wife (petitioner), his mother, son and daughter (not parties to this writ petition) in equal ratio.

Furthermore, petitioner was appointed as Helper with the respondent – Corporation on compassionate grounds on 08.03.1991. Pension and Gratuity Scheme for the employees of the Corporation was introduced, vide notification dated 20.03.1996 w.e.f. 01.01.1986. Relevant condition therein reads as under:-

“ The employees who have already retired may opt for the scheme subject to the condition that the Employer's share drawn by them at the time of their retirement will be deposited by them in lump sum with the Corporation together with up to date interest at the rate of 12% with half yearly compounding. The interest on payment of arrears of pension is such employees will be paid @ 12% with half yearly compounding.”

Pursuant to order passed in the case of LRs of another employee (Warehouse Manager, which is otherwise not related qua the facts of present writ petition), office order dated 30.10.2000 was passed with the approval of Board of Directors of the Corporation, who vide Resolution 86.6 decided to extend the benefit of family pension w.e.f. 01.10.1986 to legal heirs of those deceased

employees, who had been unable to opt for the Pension and gratuity scheme of the corporation on the pattern of State Government employees on the condition that contribution by the Corporation to CP fund of the deceased employee alongwith interest with yearly compounding on such contribution at the rate fixed by the State Government on GP Fund from year to year shall be refunded to the corporation alongwith amount if any, in excess of Corporation's contribution towards CP Fund plus interest admissible under the rules of the Corporation. It is further provided that no interest on accumulated pension shall be payable by the Corporation. It is the case of the respondents as apparent from order dated 21.03.2022 that successors of such deceased employees were required to apply for family pension but in the instant case, petitioner only after 22 years of passing away of her husband applied for family pension.

Averment on behalf of the petitioner that she was not aware of introduction of the Family Pension Scheme of the Corporation, is negated by the fact that petitioner herself admittedly submitted, her own option under the pension scheme in the capacity of an employee and is admittedly covered under the said Pension Scheme. It is not denied that petitioner for long years after demise of her husband in the year 1995 never raised a claim for grant of family pension despite the fact that she was clearly aware of Pension and Gratuity Scheme (20.03.1996) being in place as admittedly, she after her appointment in the year 1995, had duly submitted her option thereunder. Furthermore, petitioner alongwith other legal heirs admittedly accepted the pensionary benefits released on 06.11.1996 subsequent to submission of succession certificate. Even at that time, the petitioner having been appointed on 06.02.1995 with the Corporation, being fully aware of the Pension Scheme, raised no claim for family pension. Argument raised by learned counsel for the petitioner is that it was incumbent upon the

respondents and part of their duty, to have firstly given proper intimation to the petitioner and sought necessary documentation for release of family pension and when no such steps were taken, there can be no bar of limitation against the petitioner. This argument is clearly devoid of any merit in the given factual matrix as has been detailed in the foregoing paras.

In my considered opinion, order dated 25.04.2016 as well as 22.03.2022 have been correctly passed in accordance with the provisions of law. Learned counsel for the petitioner is unable to point out any illegality, infirmity or irregularity therein, which calls for interference by this Court.

No other argument has been addressed.

Writ petition is, accordingly, dismissed with no order as costs.

July 28, 2022
rts

(LISA GILL)
JUDGE

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