

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.208

CWP No.18509 of 2016
Date of Decision: 31.08.2022

Seema Rani

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Malik, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Mr. R.K.Malik, Sr. Advocate with
Mr. Sachmeet S.Randhawa, Advocate
for respondent No.4.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present petition, the grievance of the petitioner is that the petitioner was entitled for the grant of monthly financial assistance till the year 2023 whereas the said assistance has been stopped by the respondents after the petitioner got remarried, which act of the respondents is contrary to the rules governing the said aspect and therefore, an appropriate direction needs to be issued to the respondents to continue the monthly financial assistance of the petitioner till 09.01.2023.

As per the facts mentioned in the present petition, the petitioner was married to Raj Kumar, who was working as a Lecturer in Economics and while working on the said post, he unfortunately died on 09.01.2011.

After the death of Raj Kumar, the petitioner was given the monthly financial assistance equivalent to the last pay drawn by the late Raj Kumar, starting from 10.01.2011 till 09.01.2023 by invoking Rule 5(1) of the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006. The petitioner continued to get the said monthly financial assistance till the petitioner got remarried on 19.04.2015. The said monthly financial assistance was then stopped in favour of the petitioner but was extended to the mother of the late Raj Kumar i.e. respondent No.4. In the present petition, the challenge is to the said action of stopping the monthly financial assistance in favour of the petitioner and granting the same in favour of respondent No.4.

After notice of motion, the respondents have filed reply wherein the respondents have stated that the monthly financial assistance can only be granted to the wife of the deceased till she remarries and as per the proviso, the wife can still get the monthly financial assistance after remarriage in case, the total income of the wife from all sources does not exceed the minimum family pension to be given but in the present case, the petitioner herself being employed in the department of education, is drawing monthly income of Rs.45,000/-, which is more than the minimum family pension which would have been admissible to the petitioner in respect of the services rendered by her late husband Raj Kumar, hence, the monthly financial assistance in favour of the petitioner was withdrawn after she got remarried and as the mother of the deceased was not having any income and she was also dependent upon her deceased son, the same was extended in favour of respondent No.4.

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

The case was argued by learned counsel for the parties on 27.08.2019. On the said date, the following order was passed:-

“Counsel for the petitioner states that though the petitioner, who is a childless widow, was entitled for the benefit keeping in view Clause 14(iv) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short '2006 Rules'), but the same has been denied to her on the ground that she has remarried.

On being pointed out that childless widow of the deceased government employee will be entitled for the benefit under 2006 Rules even after her marriage in case the income of the said childless widow from all the sources, is not above the minimum family pension prescribed by the respondents-State. In Clause 14(iii) of Rules of 2006, the minimum family pension for becoming eligible for the grant of benefit under Category II of 2006 Rules has been given, which is as under: -

“Category II -

(c) unmarried/widowed/divorced daughter, not covered under Category I above, till the date of marriage/remarriage or till the date she starts earning or till the date of death, whichever is earliest;

(d) parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child;

(ii) family pension to unmarried/widowed/divorced daughters in Category II and dependent parents shall be payable only after the other eligible family members in Category I have ceased to be eligible to receive family

pension and there is no other eligible disabled child to receive the family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become ineligible for grant of family pension in that category.

(iii) The dependency criteria for the purpose of family pension shall be the minimum family pension of Rs.3500/- and dearness relief thereon.

(iv) The childless widow of a deceased Government servant shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the State Government. In all such cases, the family pensioner would be required to give a declaration regarding her income from all other sources to the Pension Disbursing Authority every six months.”

Counsel for the petitioner is not able to rebut that petitioner is getting ₹45,000/- per month from employment as she is working as Art & Craft Teacher in Government Senior Secondary School, which is much more than minimum of ₹3,500/- prescribed for becoming eligible for the grant of benefit under 2006 Rules.

Counsel for the petitioner states that in case the petitioner is being ousted as her income from all the sources is more than ₹3,500/-, then, how come the benefit has been granted to respondent No.4, who is the mother of the deceased and her income from all the sources is also beyond ₹ 3,500/- per month keeping in view the fact that respondent No.4 owns six acres of agricultural land and has the amount deposited in the Bank from where she

get the interest.

Learned Senior counsel appearing on behalf of respondent No.4 prays for time to rebut the said averment, which has been made in paragraph No.18 of the writ petition, to show the eligibility of the mother to get the assistance as envisaged under 2006 Rules, which has been allowed to her by the impugned order.

Let an affidavit be filed before the next date of hearing so that the averments made in the said affidavit are got verified by the appropriate agency of the State government before any order is passed in this regard.

Adjourned to 04.11.2019.”

A bare perusal of the above reproduction would show that keeping in view the 2006 Rules, the petitioner was held not entitled for continuance of her monthly financial assistance keeping in view the fact that after remarriage, the petitioner was drawing monthly income of Rs.45,000/-, which is more than the family pension for which she would have been entitled for, hence, no fault can be found in the act of the respondents in stopping the monthly financial assistance of the petitioner.

As far as respondent No.4 is concerned, an affidavit has been filed by respondent No.4 on 29.10.2019, wherein it has been mentioned that respondent No.4 only owns one marla of land in the village Kandela and is dependent upon the said monthly financial assistance to survive and have no other source of income apart from the same, which averments in the affidavit have gone unrebutted. That being so, no fault can be found in the act of the respondents in extending monthly financial assistance in favour of respondent No.4 being mother of the deceased and being dependent upon the deceased at the time of his death.

Keeping in view the above, no ground is made out for interference by this Court and accordingly, the present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

31.08.2022
Maninder

Whether Speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No