

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP No. 26538 of 2016
Date of Decision : 10.03.2022

Sushilla Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amardeep Hooda, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed for the grant of interest on the delayed release of payment of family pension, which was extended to the petitioner after the death of her husband, namely, Jagpal Singh, who was working as Agriculture Development Officer with the respondent-State.

Learned counsel for the petitioner argues that the husband of the petitioner, who was working as Agriculture Development Officer with the Department of Agriculture, unfortunately, died while in service on 23.04.1991 and thereafter, the petitioner submitted her claim for the grant of family pension but the same was not granted to her on one pretext or the other and ultimately, the petitioner had no option but to approach this Court by filing CWP No. 28372 of 2013 that keeping in view the principle of law

in *Smt. Savitri Devi Vs. The State of Haryana*, 1996 (2) RSJ 854, the petitioner is entitled for the grant of family pension. Learned counsel for the petitioner submits that this Court directed the respondents to decide the claim of the petitioner and gave her liberty to move to the concerned authorities for the grant of interest. Learned counsel further submits that though, the petitioner was given the benefit of family pension but as the amount was released to her after a period of 26 years from the death of her husband, the grant of interest on the said delayed release of amount, has wrongly been denied by the respondents by stating that there was no intentional or deliberate delay on the part of the department in release of the same. The order dated 30.06.2016 (Annexure P-3) is under challenge in the present petition.

Upon notice of motion, the respondents have appeared and filed their reply, wherein, they have stated that the husband of the petitioner was appointed as Agriculture Development Officer with the respondent-department and he died while in service on 23.04.1991 and, therefore, as there was a dispute with regard to the eligibility of the petitioner to claim family pension, the same could not be extended to her and it was only after the clarification, which was issued by the Government of Haryana dated 23.04.2010, the petitioner became entitled for the grant of relief and the same was released to her after completing the formalities, which took time. Learned counsel for the respondents submits that as the delay is not intentional but is only procedural, the prayer of the petitioner for the grant of interest may kindly be declined.

Learned counsel for the petitioner submits that the arguments

being raised by learned counsel for the respondents that the claim of petitioner became admissible only after the instructions dated 23.04.2010, is incorrect for the reason that this Court had already decided the similar claim while passing order in ***Smt. Savitri Devi's case (supra)*** as far back as in the year 1996 holding that in similar facts and circumstances as of this case, the claim of the petitioner therein for the grant of family pension was held genuine and liable to be accepted keeping in view the rules governing the service and, therefore, the delay is on part of the respondents, as the respondents did not grant the petitioner relief despite settled principle of law on the issue, petitioner is entitled for the grant of interest.

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

It is a matter of fact that the husband of the petitioner died on 23.04.1991. It is also not in dispute that this Court while passing order in ***Smt. Savitri Devi's case (supra)***, held that even if a Government employee did not complete service for one year before death but if employee was medically fit at the time of the appointment, the family is entitled for the family pension. That being so, it was incumbent upon the respondent-department to apply the said principle of law on the case of the petitioner as well, as the same was pending consideration with the department. The respondents did not act on their own to grant the relief to the petitioner but the petitioner was forced to approach this Court to seek the benefit and it was only after the fact that the respondents were directed to consider the claim of the petitioner, the family pension was ultimately released in favour of the petitioner in the year 2015 even as per respondents, keeping in view

the settled principle of law, even though instructions were issued on 23.04.2010, which connect the case of the petitioner for grant of family pension. Though, it can be said that at the time when the husband of the petitioner died, there was a debatable issue whether the petitioner is entitled for the grant of family pension or not but once, on the similar facts and circumstances, this Court had already settled the said question of law while passing order in *Smt. Savitri Devi's case (supra)* in the year 1996, it was incumbent upon the respondents to apply the said ratio upon the petitioner as well but the respondents did not do so for the reason best known to them. Keeping in view the judgment of the Division Bench in CWP No. 4382 of 2002 decided on 21.03.2002 titled as **Satbir Singh Vs. State of Haryana**, where a question of law has been settled by the Court that being a welfare State, the State has to apply settled principle of law on the similarly situated employees rather than forcing everyone to approach Court of Law to seek same relief, but the respondents failed to comply with their responsibility and made the widow run after them to claim a benefit for which, she was entitled for a period of more than one and half decade, before she was extended the relief.

The explanation, which is being given by the respondents that the documents relating to the appointment of the husband of the petitioner and his medical certificate was not found, cannot be attributed to the petitioner as the same was the responsibility of the department to keep the said documents in the safe custody.

Concededly, in the present case, there is a delay, which is attributable on the part of the respondents themselves. The question now

arises as to from which date, the petitioner should be extended the benefit of interest. As, there was a debatable issue initially when the husband of the petitioner died in 1991 but once, the question of law was settled by this Court while passing an order in *Smt. Savitri Devi's case (supra)*, which was decided on 13.03.1996, the petitioner becomes entitled for the grant of interest from 01.04.1996 onwards as, on the said date, there was no dispute qua the entitlement of the petitioner for the grant of family pension. The petitioner is held entitled for interest @ 9% per annum from 01.04.1996 onwards till the actual amount is released to her. Let the amount under this order be calculated by the respondents within a period of two months from the receipt of copy of this order and the amount so calculated, be released to the petitioner within a period of next four weeks.

Petition is allowed in above terms.

March 10, 2022
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes