

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

**LPA No.495 of 2018 (O&M)
Decided on: 28.04.2022**

Jasvir Kaur

... Appellant

Versus

Maharaja Ranjit Singh State Technical University Bathinda and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Krishan Singh Dadwal, Advocate for the appellant.

Mr. S.S. Bhinder, Advocate for respondent Nos.1 & 2.

Mr. Pankaj Gupta, Addl. AG, Punjab
for respondent No.3.

Ms. Shaveta Sanghi, Advocate (Legal Aid Counsel)
for respondent No.4.

G.S. Sandhawalia, J.(Oral)

The present letters patent appeal arising out of the judgment of the learned Single Judge dated 16.03.2018 passed in **CWP No.21932 of 2015 'Jasvir Kaur Vs. Maharaja Ranjit Singh State Technical University Bathinda and others'**, whereby on account of the fact that the civil litigation *inter se* the parties was pending, the writ petition has been held to be legally not maintainable. The order reads as under:-

“Since, there is dispute with regard to the legal heirship of deceased and the Civil Court is already seized of the matter by way of a civil suit, that too, filed by the petitioner, which has since been dismissed vide judgment and decree dated 19.12.2017, the instant writ petition is not legally maintainable.

2. Dismissed.

3. However, the dismissal of this petition on account of non-maintainability shall have no effect on the civil litigation”

It is not disputed that the writ petitioner who had filed the petition is aggrieved against the release of pensionary benefits and other co-related benefits arising out of service career of her husband who retired as Associate Professor from the Architect Department. The claim is made under the provisions of Punjab Civil Services Rules as well as the schemes framed under the said rules. The contesting respondent is stated to be the the deceased employees brother's wife. The University had declined the claim on account of the fact that there is a civil litigation pending *inter se* and there was a registered Will dated 24.06.2013 (Annexure R-4) in favour of the nephews Rajinder Singh and Navdeep Singh, the sons of the private respondent. The Will as such pertains to the issue of the property, the factum of house property and amount deposited in the bank, post office and all debts etc. have been mentioned and it does not mention anything about the service benefits and to whom they will accrue. However, there was exclusion of the wife, daughter and sons on account of not having any relationship with the deceased employee and that they will not have any concern in the property after his death.

It is not disputed that the writ petitioner alongwith her daughter as such had filed a civil suit for declaration that they are owners in joint possession of land as mentioned in the head note of the plaint and the Will had been executed in suspicious circumstances. It is stated that the Will as such has been upheld by

the Civil Court and an appeal is stated to be pending.

In our considered opinion that the dismissal of the writ petition as such by a brief order would not suffice the ends of justice. Specific plea was taken as such that the rules are applicable and the factum of which had not been specifically denied by the University. We are of the considered opinion that the learned Single Judge was under a bounden duty to decide the applicability of the rules and the entitlement of the service benefits *inter se* parties on the basis of the same. In such circumstances, the order can be said to be non-speaking, as it does not deal with said rules and we have no other option but to set aside the impugned order dated 16.03.2018 and remand the matter for a fresh decision on the merits of the case.

Accordingly, the appeal is allowed. The writ petition be listed as per roster in the motion list, since the same pertains to retiral dues.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

April 28, 2022
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No