

2023:PHHC:102641

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

CWP-4139-2023 (O&M)
Date of Decision:- 8.8.2023

Balwinder Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Baljeet Singh Sidhu, Advocate for the petitioner.
Ms. Ishma Randhawa, Additional Advocate General, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner – Balwinder Kaur widow of late Shri Harjit Singh, who had initially been appointed as ‘SPO’ in the year 1993 and was later regularized in the year 2006 as a Constable and had expired on 20.12.2022, seeks issuance of a Writ in the nature of Mandamus directing the respondents to grant family pension to the petitioner alongwith interest @18% per annum on account of death of her husband.
2. Learned counsel for the petitioner submits that the petitioner’s husband had served as ‘SPO’ for about 13 years before being regularized as a Constable on 1.4.2006. Learned counsel submitted that although the petitioner’s husband had expired on 20.12.2022, but the petitioner till date has not been

granted any family pension or any other retiral benefits in respect of her husband on the premises that her husband had been appointed in the regular cadre of Constables on 1.4.2006 i.e. after coming into force of the Contributory Pension Scheme w.e.f. 1.1.2004. Learned counsel submits that the entire service rendered by the petitioner's husband right from the year 1993 has to be treated as qualifying service and it is the pension scheme as applicable in the year 1993, which would be applicable and not the Contributory Pension Scheme, which came into effect in the year 2004. It has been submitted that a similar issue came up before this Court in CWP-11464-2020 titled as Kuldeep Kaur Versus State of Punjab and others, wherein the writ petitions filed by identically situated persons had been allowed vide order dated 28.4.2022 (Annexure P-8). It has further been submitted that although the petitioner submitted a legal notice dated 6.1.2023 (Annexure P-7) to the respondents, but to no avail.

3. Learned State counsel has submitted that the State shall duly consider the case of the petitioner in light of the aforesaid judgment as well as other relevant judgments and the rules as applicable and shall take a final decision in the matter at the earliest.
4. In view of the aforestated submission, the instant petition is disposed off with a direction to the respondents to consider and dispose of the legal notice dated 6.1.2023 (Annexure P-7) in light of the settled case law by passing a speaking order in accordance with law, expeditiously within a period of 4 months from today.

5. In case, the petitioner is found entitled to the family pension or other benefits, then the payment in respect of the same shall be made within a period of one month from taking such decision.

8.8.2023

(Gurvinder Singh Gill)
Judge

kamal

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