

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12227-2016
Date of decision : 10.08.2023

Rajni Bala ...Petitioner

Vs.

The Punjab State Power Corporation
Ltd., Patiala (Punjab) and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. H.S.Thiara, Advocate
for the petitioner.

Mr. R.L.Sharma, Advocate
for respondent-PSPCL.

DEEPAK MANCHANDA, J. (Oral)

1. Petitioner-Rajni Bala has filed this writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the order dated 17.02.2016 (Annexure P-3) passed by respondent No.3, whereby her special pension has been stopped w.e.f.February, 2016 Further the prayer has been made for issuance of writ in the nature of Mandamus directing the respondent Nos.1 to 4 to continue the special pension of the petitioner, which was granted on account of death of her husband.
2. Briefly, the grievance of the petitioner as contained in the writ petition relates to stoppage of special pension granted to her after the death of her husband. As per the averments in the writ petition, petitioner's husband namely, Joginder Pal was working with respondent-department as Junior Engineer, who after serving 20 years, died in harness on 26.09.2008. The

respondent-department granted special pension to petitioner as per Punjab Civil Services Rules, being dependent on deceased. The petitioner moved a petition bearing CWP No.24466-2014 claiming compassionate appointment, which is pending adjudication. In the meantime, respondent-department received a complaint dated 07.12.2015 against the petitioner wherein it has been stated that petitioner solemnized marriage with Manjit Singh on 24.02.2013, therefore, she is not entitled for any relief i.e. pension as she ceased to be the legal heir of Joginder Pal. Thereafter, relying upon the aforesaid complaint, respondent No.3 issued a letter dated 17.02.2016 i.e. impugned order (Annexure P-3) intimating the petitioner that on the basis of complaint, pension of the petitioner from the month of February, 2016 has been stopped till the completion of enquiry and after the completion of the same, necessary action shall be taken as per Inquiry Report, whereas in reply (Annexure P-4), petitioner stated that she is still having status of widow of Lt.Sh.Joginder Pal and also tendered her affidavit in this regard dated 20.04.2016 (Annexure P-5). Hence this writ petition.

3. Learned counsel for the petitioner submits that order of withholding of petitioner's special pension is not sustainable in the eyes of law as neither any opportunity of being heard has been afforded nor any show cause notice was given to petitioner before passing the impugned order. He further contends that the alleged complaint filed against her is totally false and she has not solemnized marriage, therefore, she prays for quashing of the impugned letter/order dated 17.02.2016 (Annexure P-3).

4. In support of his contention, learned counsel for the petitioner has placed reliance upon the judgment passed by Hon'ble Apex Court rendered in

“Surjit Kaur Vs. Garja Singh and others” and “Kala Devi wd/o Lt.Manglilalji Srivastava Vs. State of M.P. and others”, 2009 (4) MPLJ 628.

5. Learned counsel representing respondent-department while referring to the reply dated 16.08.2016 has opposed the prayer of the petitioner and contends that as per the Rule 6.17 of Punjab Civil Service Rules Vol.II, the family pension is allowed to the family of the deceased employee, which included widow along with other while under Rule 6.17 (3), the pension is admissible only in case of widow upto the date of death or remarriage, whichever is earlier, and as the petitioner has remarried, therefore, the benefit of family pension ceased to exist. He further submits that on receipt of a complaint dated 07.12.2015, the competent authority vide order dated 28.12.2015 constituted an inquiry to look into the allegations. As per the Enquiry report (Annexure R-1), it was found that petitioner-Rajni Bala has solemnized second marriage with Manjit Singh. He prays that present petition be dismissed.

6. Agitating the stand taken by respondent-department in its reply, replication was filed by the petitioner reiterating her stand that she has not performed second marriage with Manjit Singh and prays that pension be paid to her.

7. Heard learned counsel for the parties and perused the case file carefully.

8. The only question which arises for determination before this Court is whether petitioner will be entitled for the family pension on account of second marriage.

9. As per the respondents, keeping in view the Rule 6.17 sub rule (4)

of the Punjab Civil Services Rule, Vol. II, the family pension is allowed to the family of the deceased employee. The relevant sub Rule of the Punjab Civil Services Rule, Vol. II is as under:-

FAMILY PENSION SCHEME

“6.17(4) The pension will be admissible– (i) (a) in the case of widow or widower up to the date of death or remarriage whichever is earlier;

(b) in the case of a son until he attains the age of twenty-five years or till he starts earning his livelihood, whichever is earlier; and

(c) to a daughter upto the age of twenty-five years irrespective of her marriage. However, an unmarried daughter shall be entitled to family pension irrespective of her age. But, family pension shall not be admissible to a daughter, if she starts earning her livelihood”.

10. A bare perusal of the above sub rule of Rule 6.17(ibid) shows that pension will be admissible in the case of widow upto the date of her death or remarriage, whichever is earlier. In the present case, when it came to the knowledge of the department that petitioner performed second marriage, vide the impugned letter/order dated 17.02.2016 (Annexure p-3), petitioner was informed that a written complaint was received on 24.02.2013 against her that she re-married to S.Manjit Singh s/o Charan Singh r/o Vill.Chungiara and on the basis of the same, her pension was stopped from the month of February 2016. Further, enquiry report dated 28.12.2015 (Annexure R-1) shows that the petitioner -Rajni Bala has performed second marriage with aforesaid S.Manjit Singh on 24.02.2013. Since factum of re-marriage by the petitioner is established on record, the petitioner is not entitled for the relief claimed in the present writ petition.

11. In view of the above, no case is made out for quashing the letter/order dated 17.02.2016 (Annexure P-3) passed by respondent No.3.
12. The petition is dismissed.

(DEEPAK MANCHANDA)
JUDGE

10.08.2023

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