

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CWP-12453-2018 (O&M)

Date of Decision :-12.09.2023

Chhanno Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lalit Pardhan, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the prayer of the petitioner is that the petitioner is entitled for the grant of service benefits in respect of the services rendered by her late husband, which benefits have not been extended to her on the ground that after the regularization of the services of the late husband of the petitioner, he did not have one year of service to his credit.

Certain facts needs to be mentioned for the correct appreciation of the controversy in question.

Husband of the petitioner namely, Mange Ram was appointed as part-time sweeper with the respondent-department on 02.11.1986 and his services were regularized in the year 2005 but immediately thereafter, he died on 10.06.2005. After the death of the husband of the petitioner, the

claim was raised by the petitioner for the grant of service benefits including family pension as well as the compassionate assistance of Rs.5,00,000/-, which were not extended to the petitioner.

Learned counsel for the petitioner submits that once the husband of the petitioner was a regular employee on the date when he died and he was serving the respondent-department from 02.11.1986 and was medically fit in all respects, the claim of the petitioner is covered by the settled principle of law settled by the Division Bench of this Court in CWP-10208-1995 titled as Savitri Devi vs. State of Haryana and others decided on 13.03.1996, according to which, even if, an employee died before completing one year of service, his dependents will be entitled for family pension in case the employee was fully fit at the time of appointment.

Learned counsel for the respondents submits that as per the reply filed, it has already come on record that husband of the petitioner was working with the respondent-department on adhoc basis starting from year 1986 and it is also a matter of fact that his services were regularized in the year 2005 but once under the scheme/rules for the grant of pensionary benefits, one year service is required after regular appointment, until and unless the husband of the petitioner fulfills the said requirement, no benefit can be extended to the petitioner.

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

The question whether an employee, who dies while in service before completing one year of service, family of the deceased employee will be entitled for family pension or not, has already been answered by the Division Bench of this Court in the case of Savitri Devi (supra).

As per the judgment in Savitri Devi (supra) in case an employee does not have one year of service prior to the death, even then also, the family of the deceased employee will get family pension under 1964 scheme in case employee was medically fit at the time when he/she was recruited. Relevant paragraph of the judgement is as under:-

4. In order to appreciate the contention raised by the learned counsel for the petitioner, it is necessary at this stage to advert to the relevant provisions as contained in Note-1 to para 4(i) of Appendix 1 to The Punjab Civil Services Rules Volume II (as applicable to Haryana State), relating to Family Pension Scheme, 1964. The said para is reproduced hereinbelow :

"4. This scheme is administered as below :

(i) The family pensions is admissible in case of death while in service or after retirement on or after the 1st July, 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. The Family Pension will not be admissible in case of death after retirement if the retired employee at the time of death was in receipt of gratuity only. In case of death while in Service a Government employee should have completed a minimum period of one year of continuous service without break. Note 1 : The term one year continuous service used in para 4(i) above is inclusive of permanent/temporary service in a pensionable establishment but does not include period of extraordinary leaves, boy service and suspension period unless that is regularised by the competent authority or before completion of one year continuous service provided the deceased Government employee concerned immediately prior to his recruitment to the service or post was examined by the appropriate Medical Authority and declared fit by that authority for Government service."

3. The mandate of the aforementioned provision appears to be that in case the Government Servant at the time of entry into service produces a Medical Certificate of Fitness, the family would be entitled to Family Pension even if he dies within less than one year. Concededly, the husband of the

petitioner did submit the Medical Certificate of Fitness,
Copy Annexure P1

4. The only interpretation which can be placed upon the Scheme as reproduced above is that even if the deceased Government employee does not complete one year of continuous service, his dependents would nevertheless be entitled to the grant of family pension provided the deceased was medically examined and found fit and a Medical Certificate of Fitness is produced before entry into Government Service from a competent Medical Officer. The completion of one year continuous service is, therefore, wholly irrelevant in view of the phraseology of the Family Pension Scheme.”

In the present case, it may be noticed that husband of the petitioner was fully fit at the time when he joined the respondent-department and rather he served the department for a period of 19 years. It is only that his service after regularization, was less than one year on the date he unfortunately died hence, keeping in view the facts and circumstances of the present case, as husband of the petitioner was fully fit and had performed duties for a period of 19 years, the petitioner will be entitled for the grant of pensionary benefits in terms of the settled principle of law.

Learned counsel for the respondents has not been able to point out any differentiating fact so as to differentiate the case of the petitioner with that of Savitri Devi (supra) so as to deny the benefit of family pension to the petitioner.

Even otherwise, in the present case, service of the husband of the petitioner was above 19 years though, on part-time basis and keeping in view the settled principle of law settled by this Court in ***CWP-1048-2016*** titled as ***Jai Bhagwan vs. State of Haryana and others*** on 01.03.2019, according to which, part-time service if rendered for more than a decade

cannot be treated as stop-gap service and is to be taken into account for calculating the pensionary benefits. That being so, husband of the petitioner had more than one year of service to his credit at the time when he died hence, petitioner is entitled for the grant of service benefit.

Keeping in view the facts and circumstances noticed herein above, present petition is allowed. Respondents are directed to grant the petitioner pensionary benefits including family pension for which the petitioner is entitled for after the death of her husband along with arrears within a period of two months from the date of receipt of copy of this order.

September 12, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No