

216 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-27225-2015 (O&M)
Date of Decision: 28.04.2023

SOMA RANI THROUGH LRPetitioner
Versus

PUNJAB STATE POWERCOM CORP LTD & ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K. S. Sidhu, Advocate
for the petitioner.

Mr. R.L. Sharma, Advocate
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

CM-3609-CWP-2023

This application has been filed under Order 22 Rule 4 read with Section 151 CPC for impleading Vijay Kumar, son of Late Smt. Soma Rani as a party petitioner No.1.

For the reasons mentioned in the application, the same is allowed. Vijay Kumar, son of late Smt. Soma Rani, is impleaded as a party petitioner No.1.

CWP-27225-2015

1. The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of appropriate order, directions and especially writ in the nature of mandamus directing the respondents to release the pension in favour of the petitioner-mother on account of death of her son-late Sh. Om Parkash and with further prayer of quashing the impugned order dated 07.05.2015 (Annexure P-5).

2. Learned counsel for the petitioner submitted that the name of the petitioner was not mentioned in the HR data of Sh. Om Parkash and it is not proved that she is dependent upon him and therefore the present petition has been filed.

3. Learned counsel for the petitioner submits that during the pendency of the present petition, the petitioner-Soma Rani died on 19.01.2020 and she was of the age of more than 80 years and she was the mother of one deceased namely Sh. Om Parkash who was working in the respondent-department and he retired on 30.06.2012 from Sub Division, Faridkot. The wife of the aforesaid Om Parkash namely Smt. Kanta Rani had already died on 23.10.2006. Unfortunately, on 28.05.2014 even son of the petitioner, Om Parkash, also died leaving behind his two sons namely Dheeraj Kumar and Rajan Kumar who were already more than 25 years of age at that point of time. He submitted that therefore the only surviving LR for the purpose of receiving of the pension in view of Rule 6.17 Punjab Civil Services Rules, Vol.II, was the mother of the deceased Om Parkash, but family pension to the petitioner has been denied on the ground that it was not found that the petitioner is dependent upon the aforesaid Om Parkash which is factually incorrect. He further submitted that the petitioner was entitled for the grant of family pension under the statutory rules comprised in Rule 6.17 Volume-II which have been adopted by the respondent-Corporation and therefore under the Statutory Rules, the petitioner was entitled for grant of family pension and even otherwise also so far as the objection of the respondent-Corporation as to whether the petitioner was dependent upon her son or not, was also tried to resolve when the order was passed by this Court on 22.08.2019 whereby the learned counsel for the respondent stated that an inquiry has to be conducted

to see as to whether the petitioner is actually dependent upon aforesaid Om Parkash or not and was filed an affidavit in this regard. He submitted that thereafter an inquiry was conducted and it was found that the petitioner who was an old lady was totally dependent upon aforesaid Om Parkash. He further submitted that even despite the fact that the aforesaid order was passed by this Court on 22.08.2019 but no affidavit has been filed by the respondent-Corporation till date and therefore, in view of the aforesaid statutory provisions the petitioner is entitled for grant of family pension. He further submitted that with regard to the definition of family which is contained in Rule 6.17(3), Volume-II of Punjab Civil Services Rules, earlier the parents were not included in the family but the same was challenged in judgment of this Court in *State of Punjab and another Vs. Kharak Singh Kang and another 1998 (1) RSJ 412* wherein it was held that the family, if it excludes the parents would be ultra vires and parents are to be included in the definition of the family for grant of family pension. Thereafter now even as per Rule 6.17(3) of Punjab Civil Services Rules, Volume-II includes the parents and therefore the petitioner was also entitled for grant of family pension from the date of the death of the son of the petitioner.

4. On the other hand, learned counsel for the respondents submitted on a special query being raised to him as to whether an inquiry was conducted in pursuance of the order passed by this Court on 22.08.2019 in which he submitted, on instructions, that inquiry was conducted and it was found that the petitioner was dependent upon the aforesaid Om Parkash. However, no affidavit in this regard has been filed so far.

5. I have heard learned counsel for the parties.

6. The son of the petitioner was working in the respondent-Corporation and retired from the same. The wife of Om Parkash had already died way back in the year 2006. The aforesaid Om Parkash had two sons at the time of his death and at that point of time they were more than 25 years of age. The petitioner was the mother of Om Parkash.

7. Learned counsel for the petitioner submitted that even Soma Rani, petitioner has already died and her son Vijay Kumar and two sons of the aforesaid Om Parkash have already been impleaded as party in the present case and therefore, so far as the rights which accrued to the aforesaid Soma Rani, the same are now to be disbursed to the legal heirs of Soma Rani . Therefore, first of all the question before this Court for adjudication in the present case is as to whether the petitioner No.1 Soma Rani (since deceased) was entitled for the grant of family pension or not. The relevant portion of Rule 6.17(3) of the Punjab Civil Services Rules, Volume-II pertaining to the definition of family is reproduced as under:-

(3) "Family" for purposes of this Scheme will include the following relatives of the Government employee:-

(a) wife in the case of a male Government employee and husband in the case of a female Government employee;

(b) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;

(c) sons upto the age of twenty-five years;

(d) daughters upto the age of twenty-five years irrespective of their marriage but unmarried daughters shall be included in the family irrespective of their age; and

(e) parents who were wholly dependent on the Government employee, when he/she was alive provided the deceased employee had left behind neither a widow nor a child.

Note 1.- (c) and (d) will include children adopted legally before retirement

Note 2.- Marriage after retirement shall be recognised for purposes of this Scheme.

8. A perusal of the aforesaid would show that the parents are now included in the definition of family. In the present case Soma Rani was a widow and

she (being mother) Dheeraj Kumar (son) and Rajan Kumar (son) were the LR's of deceased-Om Parkash. Even otherwise also in view of the Division Bench judgment of this Court, the parents cannot be excluded from the definition of the family. Therefore petitioner No.1 Soma Rani was entitled for the grant of family pension till her death and now LRs of the aforesaid Soma Rani will be entitled for the same. During the course of arguments, learned counsel for petitioner pointed out that there are other brothers also of aforesaid Om Parkash. Therefore, this Court would not go into the dispute for adjudicating that who is entitled for the grant of benefits which are accrued to aforesaid Soma Rani and for that purpose the legal heirs of Soma Rani may get a necessary certificate from the appropriate Court or authority and submit to the respondent-Corporation for the purpose of disbursement.

9. In view of the above, the present petition is allowed. The order dated 07.05.2015 (Annexure P-5) passed by respondent No.2-The Chief Account Officer, Pension Wing, PSPCL, Patiala, is hereby set aside. It is held that Soma Rani was entitled for the grant of family pension on the date of death of her son till she died and thereafter her LRs will be entitled for disbursement of the same, subject to the conditions that LRs will give the necessary certificate from the concerned authority/Court to the respondent-Corporation and in case the said certificate is supplied to the respondent-Corporation, then the same shall be disbursed within next 4 months.

28.04.2023
neelam

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No