

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3991 of 2017 (O&M)
Date of decision: 27.01.2023

Gurmeet Kaur

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ranjivan Singh, Advocate
for the petitioner.

Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J(Oral)

1. On 23.01.2023, the following order was passed:-

“The petitioner prays for the issuance of a writ in the nature of certiorari to quash the communication dated 03.12.2007, while denying her the benefit of the Old Pension Scheme. She also prays for the quashing of the order dated 04.02.2010, whereby she has been refused to be accommodated in employment on the compassionate basis.

The learned counsel representing the parties are ad-idem that the claim of the petitioner under the Old Pension Scheme has been accepted on 19.11.2019 and the consequential payment thereof, has been released on 01.11.2021. However, the learned counsel representing the petitioner contends that she has been wrongly deprived of the pensionary benefits under the Old Pension Scheme for a period of nearly 14 years. She also claims employment on the compassionate basis.

This writ petition was filed in February, 2017. From the reading of the caption of the petition, it is evident that the respondents refused to appoint the

petitioner vide communication dated 04.02.2010. Hence, even a civil suit seeking the decree of declaration that the communication dated 04.02.2010 is erroneous and unjust may not be maintainable in the year 2017 due to the lapse of the limitation period. Moreover, the appointment on the compassionate basis is made to immediately support the family of the deceased, who may have been left without a source of income. Now after passing of a period of nearly 16 years, it would not be appropriate to issue any direction.

The learned counsel representing the State of Punjab prays for some time to get the complete instructions before assisting the Court with regard to the petitioner's entitlement for interest on the delayed payment.

Adjourned to 27.01.2023.

To be listed in the urgent list.

No further request for an adjournment, oral or written, shall be entertained.”

2. In order to explain the delay in release of pension under the Old Pension Scheme, an additional affidavit of the Director, Health Services (Family Welfare), Punjab, has been filed. It has been stated that the applicability of the New Contributory Pension Scheme with respect to the employees, who were selected in the year 2002, but appointed in the year 2005 was the subject matter of litigation in CWP No.1244 of 2011 which was allowed on 06.05.2011, while declaring that the Multipurpose Health Workers shall be entitled to the benefits of the Old Pension Scheme. The LPA No.108 of 2012, filed by the State Government was dismissed on 08.11.2012. Thus, there is no apparent reason for delay in release of pension under the Old Pension Scheme, at least, from 08.11.2012.

3. The learned counsel representing the State submits that the petitioner submitted her application on 25.09.2019 for the release of pension. He further submits that the husband of the petitioner was not a party to the aforesaid litigation in the High Court.

4. The petitioner herein is a widow. She applied for the pension in the year 2008, after the unfortunate demise of her husband on 16.08.2008. Once, the court had granted a declaration that the identically situated Multipurpose Health Worker (Male) shall be entitled to the pension under the Old Pension Scheme, there was no reason to withhold the pensionary amount payable to the petitioner. In fact, there was no necessity for the petitioner to file a fresh application for the release of the pensionary amount as she had already filed an application before in 2008. The State Government is expected to be a model employer. The amount of pension payable to a widow should not have been withheld, while forcing her to file a writ petition. It may be noticed here that the amount of pension under the Old Pension Scheme, though sanctioned in the year 2019, however, was released, during the pendency of the writ petition, only in the year 2021.

5. Keeping in view the aforesaid facts, the respondent-State is directed to pay the interest from December, 2012 till the realization of the payment @ 9% per annum, within a month from today, positively.

6. Disposed of accordingly.

7. All the pending miscellaneous applications, if any, are also disposed of.

January 27, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*