

231

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24111 of 2019 (O&M)

Date of Decision: 27.03.2023

Rekha Rani

..... Petitioner

V/s.

PSPCL and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. V. K. Shukla, Advocate
for the petitioner.Ms. Promila Nain, Advocate and
Ms. Harleen Ahluwalia, Advocate for the respondents.

JASGURPREET SINGH PURI, J (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking a writ, order or direction in the nature of *certiorari/mandamus* declaring the action of the respondents in not granting Family Pension to the petitioner as per order dated 23.05.2019 (Annexure P-2) alleging less than 10 years of service of the husband of the petitioner at the time of his death while in service as absolutely wrong, illegal, unlawful and against Rule 6.17 (2)(i) of the Punjab Civil Services Rules Vol. II and therefore to quash the order dated 23.05.2019 (Annexure P-2) to the extent it declines Family Pension to the petitioner.

Learned counsel for the petitioner submitted that the petitioner is aggrieved by the action of the respondent by not granting Family Pension and all the other retiral benefits to the petitioner. He submitted that the husband of the petitioner was working in the respondent-Department and he suddenly went missing on 10.03.2008. Thereafter, he was declared dead by a decree of the Civil Court vide order dated 06.12.2017. Thereafter, a death certificate/ affidavit dated 20.02.2018 (Annexure P-1) was also issued to the petitioner. He submitted that

after the death of the petitioner although the respondent had paid the GPF fund in the year 2015 regarding which the petitioner has no grievance and during the pendency of the present petition, gratuity has been paid to the petitioner on 16.11.2020, arrears of pension have been paid in the month of September, 2020 and ex-gratia has been paid on 20.02.2020 and therefore the scope of the present petition lies only to the extent of grant of interest on the delayed payment of the pensionary benefits since the amount has already been paid during the pendency of the present petition. He has referred to the Full Bench judgment of this Court in ***“A.S. Randhawa Vs. State of Punjab” in 1997(3) SCT 468***, in this regard.

Learned counsel on behalf of the respondent-Corporation submitted that the petitioner is not entitled for grant of any interest. She submitted that it is a case that the petitioner while in service went missing on 10.03.2008 and thereafter he was declared as dead by a Civil Court in the year 2017 and thereafter a death certificate was issued to the petitioner on 20.02.2018. She submitted that since the GPF belonged to the husband of the petitioner, the same was already paid to the petitioner, being the wife of the employee. Therefore, the petitioner does not have any grievance with regard to this. She submitted that since the husband of the petitioner was missing and no occasion arose for grant of any family pension to the petitioner. She further submitted that since the total service tenure of the husband of the petitioner could not be calculated which is less than 10 years and it was only after passing of the decree whereby he was declared as dead on 06.12.2017 that no cause of action arose for the purpose of considering the grant of family pension. She submitted that after the death certificate was issued on 20.02.2018 (Annexure P-1), she did not even make any application for the grant of the pensionary benefits. However, it was only on 16.10.2019 that she made the application for grant of family pension and thereafter the Department-respondent processed the

application for the grant of retiral benefits. Vide reply filed by the respondent-Corporation, it has been submitted that thereafter, various reminders were issued to the petitioner at her home address through registered letters on different dates and it was only then, on the basis of the aforesaid letters of the respondent-Corporation that the petitioner filed application for payment of ex-gratia on 01.11.2020. Thereafter, on the examination of the aforesaid documents, it was found that she has not presented the complete case/ papers to the Office of the Corporation. Since NOC of her children which was a major document for the payment of the ex-gratia, was not attached with the papers, thereafter, again the Office of the respondent issued letter on 29.11.2019 to present the required NOC in the shape of an affidavit attested by First Class Magistrate but she did not produce the same and therefore the ex-gratia payment could not be released after getting the aforesaid NOC from the other family members of the deceased person. She further submitted that so far as the GPF and family pension of the petitioner is concerned, the case of the same was sent earlier on 09.03.2015 but the husband of the petitioner at that point of time was missing and the case was again sent on 19.08.2019 but various objections were raised by the concerned office. She submitted that thereafter a letter was written to the petitioner at her home address but no reply was given by her. Ultimately when she had completed the documents, all the retiral benefits were paid to the petitioner immediately i.e. gratuity was paid on 16.11.2020, arrears of family pension were paid in September, 2020 and ex-gratia grant was paid on 20.02.2020. She further submitted that in this way, the delay, if any, which was caused was not attributed to the respondent-Corporation but was due to special circumstances whereby the husband of the petitioner went missing and thereafter

on the production of the death certificate in the year 2018, the petitioner did not come for completion of the papers and therefore the aforesaid judgment relied upon by learned counsel for the petitioner in “**A.S. Randhawa Vs. State of Punjab**” (*supra*) case would not be applicable to the present case in the peculiar facts and circumstances.

I have heard learned counsel for the parties.

It is a case which is to be considered in the light of its peculiar facts and circumstances whereby the husband of the petitioner went missing in the year 2008 and it was only in the year 2017 in the month of December that he was declared dead by Civil Court and thereafter a death certificate was issued in February, 2018. So far as the payment of GPF is concerned, the same was already paid in the year 2015 to the petitioner-the wife of the person who went missing and therefore, learned counsel for the petitioner has submitted that there is no grievance with regard to the same. The remaining benefits have been paid to the petitioner during the pendency of the present petition. The only dispute is with regard to the interest as to whether the petitioner is entitled to the same or not. The justification which has been put forth by learned counsel for the respondent-Corporation is that in view of the peculiar circumstances where the husband of the petitioner had gone missing and thereafter, he was declared as dead by Civil Court, death certificate was issued, correspondence was made with the petitioner for the submission of various document/ NOC from the other family members but it was not given by the petitioner and it was only on the submission of the same that now the benefits have been released. The justification put forth by learned counsel for the respondent seems to be just and reasonable. It is not a case of ordinary course of circumstances that the husband of the petitioner had either died or had retired, and that there had been delay on the part of respondent-Corporation for release of

benefits but it was a case of special circumstances where the husband of the petitioner went missing and it was not even clear as to whether the husband of the petitioner was entitled to the pension, having rendered more than 10 years of service or not. The entire formalities were completed by the petitioner by furnishing of documents in the end of the year 2019 and even after the filing of the present petition. The entire payment has been paid by the respondent-Corporation, in the year 2020.

In view of the aforesaid position, this Court is of the view that there is just and valid explanation provided by the respondent-Corporation, and it cannot be said that there is a delay in the payment of the pensionary benefits and therefore the petitioner is not entitled for grant of any interest.

Accordingly, the present petition qua interest on the pensionary benefits paid to the petitioner, is hereby, dismissed.

27th March, 2023

Sonia Puri

(JASGUPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No