

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(215)

CWP-24608-2021

Date of Decision : August 31, 2023

Sunil Kumari

.. Petitioner

Versus

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gaurav Sharma, Advocate, for
Mr. Ashish Verma, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present petition, the grievance raised by the petitioner is that her claim for the grant of family pension being the widow daughter of the deceased pensioner has been declined by the respondents and that too in a totally illegal or arbitrary manner.

2. The facts mentioned in the present writ petition are that the father of the petitioner was working in the Transport Department, Haryana as a Driver. He attained the age of superannuation and retired on 31.12.2014 after which, he was being paid his pension.

3. While the father of the petitioner was in service, the petitioner got married on 05.04.1997 but as her husband suffered from a kidney ailment, he unfortunately died on 24.06.2015. After the death of the husband of the petitioner, the petitioner who did not had any source of

income, became dependent upon her father and all the financial burdens were being taken care of by her father and she was being supported by her father through the pension which he was getting in respect of the service rendered in the Transport Department.

4. It may be noticed that the mother of the petitioner namely Smt. Premi Devi unfortunately died on 19.01.2017 and the father of the petitioner also died on 03.02.2019. After the death of the father of the petitioner, the petitioner, who was a widow daughter, applied for the grant of family pension but the Department declined the same on the ground that the address of the father of the petitioner as recorded in the official record, is different than the address which has been furnished by the petitioner while claiming the benefit of family pension, hence, the Department rejected the claim on the ground that the petitioner was not dependent upon her father at the time when the father died on 03.02.2019. The said order declining the benefit of family pension is under challenge in the present petition.

5. In the reply filed by the respondents, the factum that the petitioner is the widow daughter of deceased Balbir Singh, is accepted. In the reply, the same objection that the address where the Balbir Singh was residing, as recorded in the official record, is "Village Kasanda Post Office Kashandi Tehsil Gohana District Sonipat" whereas, the address given by the petitioner while claiming the family pension is "widow of Jaibir, 182/A Kundli (55), Sonipat, Haryana", hence, the petitioner cannot be treated as dependent upon her father at the time of his death and therefore, the benefit of family pension cannot be extended to her.

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

7. It is a conceded position that the petitioner is the daughter of Balbir Singh, who was a pensioner from the State of Haryana. It is also a conceded position that the petitioner is a widow, whose husband had died while her father was alive. It is also a conceded fact that the father of the petitioner unfortunately died on 03.02.2019. The only question which arise for determination is whether or not, the petitioner, who is a widow daughter of Balbir Singh, is entitled for the family pension.

8. It may be noticed that the question as to whether a widow/divorced daughter is entitled for the family pension, has been regulated by the instructions of the Government of Haryana dated 01.01.2014. As per the said instructions, the widow/divorced daughter will be eligible for family pension till she remarries or starts earning her livelihood equivalent or more than the minimum family pension prescribed. It may be noticed that the claim of the petitioner is squarely covered by the said instructions for the grant of family pension as the respondents have not come out with the plea either in the impugned order or in the reply that the petitioner is ineligible in any manner to get the family pension after the death of her father.

9. Once in the reply or in the impugned order, the eligibility of the petitioner to get family pension is not disputed and only reason for declining the benefit is that the petitioner was not living with her father at the time of his death keeping in view the address provided by her while claiming the family pension, the claim of the petitioner is liable to be allowed for the grant of family pension after the death of her father on 03.02.2019. The instructions dated 01.01.2014 are as under:-

“2. Sometime past the issue has been received in Finance Department for further clarification in r/o family

pension to widowed/divorced daughter. After due consideration, in reference to Rule 14 of Haryana Civil Services (Revised Pension) Rules, 2009 and earlier clarification issued vide No. 2/53/2009-1 Pension dated 26.04.2010, it is further clarified that the family pension will be payable to widowed/divorced daughters if she fulfils all the eligibility conditions at the time of death of the Government servant or his/her spouse, whichever is later provided she is still eligible for family pension when her turn comes. The family pension will continue only till she remarries or starts earning her livelihood, equal to or more than sum of minimum family pension and dearness relief thereon.”

10. Learned State counsel has not been able to dispute the factum of the instructions which have been issued by the State, which has been reproduced hereinbefore and has not been able to rebut the fact that in view of the facts and circumstances of the present case, petitioner is eligible to get family pension after the death of her father, upon whom she was dependent.

11. In the absence of any rebuttal qua the eligibility of the petitioner to claim being the widow daughter of Balbir Singh, the petitioner is liable to be paid family pension till she remarries or till she starts earning livelihood, which is equivalent or more than minimum family pension provided.

12. Further, merely that that the petitioner has given different address than the one of her father, as recorded in the official record, does not mean that the petitioner is not entitled for the family pension and is not dependent upon her father. Even while living separately, a widow daughter can be dependent upon her father, hence, the reason being given by the respondents to deny the benefit cannot be accepted especially when nothing has been brought on record to show that the petitioner was not dependent

upon her father or she is already having an income which is more than or equivalent to the family pension provided.

13. In the absence of these facts, the claim of the petitioner needs to be allowed for the grant of family pension.

14. Keeping in view the above, the present petition is allowed. The impugned order dated 27.10.2021 (Annexure P-4) is set aside. The respondents are directed to grant the petitioner the benefit of family pension for which she becomes entitled for from the date her father died along with arrears.

15. Further, as the petitioner has been made to run from pillar to post for the last four years for the grant of family pension, the petitioner will also be entitled for the grant of interest @ 6% on the arrears of pension. The petitioner be given pension till she remain eligible to get the same in accordance with rules/instructions issued by the Government of Haryana.

16. Let this order be complied with within a period of two months from the receipt of certified copy of this order.

August 31, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes