

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(219)

RSA-4854-2013 (O&M)

Date of Decision : January 31, 2023

Neelam Sangwan

.. Appellant

Versus

Haryana State Agriculture Marketing Board and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Akhil Kashyap, Advocate, for
Mr. Parveen K. Kataria, Advocate, for the appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Daanish Mahajan, Advocate, for
Mr. Prateek Mahajan, Advocate, for respondent No.1.

Mr. Puneet Sharma, Advocate, for respondent No.2.

Mr. Karan Kalra, Advocate, for
Mr. Sandeep Verma, Advocate, for respondents No. 5 and 6.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-13105-C-2013

Present application has been filed for condonation of delay of
56 days in re-filing the appeal.

Keeping in view the facts mentioned in the application, which
are duly supported by an affidavit, the application is allowed and delay of
56 days in re-filing the appeal is condoned.

RSA-4854-2013

In the present Regular Second Appeal, the only grievance of the appellant is regarding the finding of the Court below that the appellant, who is the widow of the deceased employee will be entitled for 1/3rd of the family pension along with mother of the deceased employee and the daughter of the deceased employee from his first marriage.

Learned counsel for the appellant submits that the trial Court did not consider the service rule in question and divided the pension between the widow of the deceased and mother of the deceased as well as daughter of the deceased from the first marriage. Learned counsel for the appellant further submits that as per the Punjab Civil Services Rules, only the widow or the children from the first marriage are entitled for the grant of family pension in the ratio of 50-50% till the time such children attain the age of 25 years or in the case of daughter, she gets married, whichever is earlier.

Learned counsel for the respondents have not been able to rebut the said factual aspect relating to the service rule in question.

Learned counsel for respondents No.5 and 6 has not able to justify as to how, the mother of the deceased i.e. respondent No.4 has been held entitled for the grant of family pension keeping in view the service rules governing the service as well as the entitlement of respondent No.6 for family pension upto the age of 25 years or the date when she get married whichever is earlier.

Learned counsel for the appellant submits that during the testimony, it was conceded that respondent No.6-daughter of the deceased from first marriage was of 18 years of age in the year 2010 which means

that she has already completed age of 25 years as of now. It has already come on record that respondent No.6 has got married.

Rule 6.17 of the Punjab Civil Services Rules as applicable to Haryana, which has been adopted by Haryana State Agriculture Marketing Board is 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; provided the marriage took place before the retirement of the Government employee and the person surviving was not held guilty of committing adultery; and

(c) sons up to the age of twenty-five years.

(d) unmarried daughters up to the age of twenty five years.

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

Note 2.- Marriage after retirement will be recognized for the purposes of this Scheme."

Learned counsel for respondents No. 5 and 6 submits that mother of the deceased employee has already died and respondent No.6 is already married. Further, learned counsel for respondents No. 5 and 6 has not been able to rebut that as per the rules governing the service mother of the deceased is not entitled to family pension in preference to the widow or the children of the deceased employee.

Keeping in view the above, as the findings recorded by the Courts below qua the apportionment of the family pension in the ratio of

1/3rd each in the favour of the appellant, respondents No.4 and 6 is liable to

be held bad being contrary to the rules governing the service accordingly and the judgment and decree dated 05.03.2012 and 06.05.2013 passed by the trial Court as well as the lower Appellate Court respectively is modified to the extent that the appellant herein as well as respondent No.6 i.e. daughter of the deceased from the first marriage, will be entitled for family pension in the ratio of 50% each upto the date respondent No.6 attains the age of 25 years or gets married whichever is earlier after which date, 50% share of the daughter will devolve upon the appellant and the suit filed by the appellant is allowed in above terms.

The present Regular Second Appeal is allowed in above terms.

CM-13106-C-2013 and CM-1353-C-2014

As the main appeal has been allowed, present application also stands disposed of.

January 31, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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