

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106

CWP-27012-2022

Date of Decision: 03.11.2023

AMARJIT KAUR

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab
for respondent No.1.

Mr. Anupam Singla, Advocate
for respondents No.2 & 3.

DEEPAK MANCHANDA, J.

1. The instant petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus for directing the respondents to release family pension to the petitioner with effect from 01.05.2001 and with a further prayer to release the arrears of family pension to the petitioner along with interest at the rate of 18% per annum on account of delayed payments.

2. The brief facts of the instant case are that deceased-Sukhdev Singh i.e. husband of the petitioner had joined the services of the respondent-Corporation on 05.06.1969 as Conductor and he was promoted on the post of

Adda Conductor on 01.01.1980. On 26.05.1991, when the petitioner's husband was on duty at Bus stand, he was killed by the terrorists and FIR No.119 dated 26.05.1991 was registered at Police Station City Sangrur, District Sangrur. A copy of death certificate dated 31.05.1991 of petitioner's husband is also annexed as Annexure P-1. Thereafter, petitioner-wife of the deceased (Sukhdev Singh) had been given complete salary of the deceased till his date of superannuation i.e. 30.04.2001 and Baljit Singh son of Sukhdev Singh (deceased) was given compassionate appointment, but unfortunately he had also expired. Thereafter, from 01.05.2001 the petitioner has not been paid any family pension.

3. Learned counsel for the petitioner contends that vide letter dated 22.10.2003 (Annexure P-2) sent by the General Manager, Pepsu, Sangrur to the Deputy Commissioner, Sangrur, wherein it has been mentioned that in the year 1991 pension scheme was not applicable in Pepsu Road Transport Corporation (PRTC), however, she was given Special Family Pension till 30.04.2001, i.e. date of superannuation of the deceased. Vide letter dated 08.02.2022 (Annexure P-3) sent by the General Manager, P.R.T.C., Sangrur to the SDM, Dhuri, the petitioner has been given full salary of her husband till his date of superannuation which shows that Sukhdev Singh (deceased) has been considered as deemed to be in service till 30.04.2001 and the petitioner would be entitled for family pension with effect from 01.05.2001. He further contends that the petitioner has not received any communication from the Corporation, requiring her to complete any legal or technical requirement, which is required for grant of family pension and she is entitled for family pension in terms of the Family Pension Scheme, 1964 and also the instructions

issued from time to time by the State of Punjab, especially regarding the persons who were killed in a terrorist action. Aggrieved by this, the petitioner had served a legal notice dated 27.06.2022 (Annexure P-4) to the respondents-Corporation, however no response has been received from the respondents. Hence the present writ petition.

4. In compliance of the order dated 11.10.2023, learned counsel appearing on behalf of respondent No. 2 and 3 while referring to the policy dated 06.11.1987 issued by the government of Punjab, i.e. respondent No. 1 regarding granting financial assistance to the families of government employees who were killed by terrorists and has placed the copy of the same who submits that as per said instructions the government employees, who were killed by Terrorist, a special family pension scheme equal to last pay drawn till the date of superannuation or thereafter normal family pension as admissible under normal rules was recommended, the same is reproduced herein below:-

SPECIAL EX-GRATIA GRANT:

i) The personnel connected directly with the maintenances of law and order namely personnel of Jail, Judicial and Magisterial Cadres as also the Public Prosecutors.

Thirty six time the pay which the deceased employee was receiving immediately before his/her death, subject to a minimum of rupees fifty thousand.

ii) Other employees.

Twenty four times. the pay, which the deceased employee was receiving immediately before his/her death subject to a minimum of rupees fifty thousand.

SPECIAL FAMILY PENSION:

All categories of employees

i) Special family pension at the rate of pay last drawn from the date of death to the date of

notional date of superannuation or the family pension admissible under the normal rules, whichever is more;

- ii) For next seven years, half of last pay drawn without any ceiling;
- iii) Thereafter, normal family pension as admissible under the normal rules.

5. He further submits that admittedly as per the said policy, the petitioner was extended the benefit of special family pension which continued till 30.04.2001 i.e. date of superannuation of the deceased husband/employee. Learned counsel has also submitted that in addition to the same, son of the petitioner was appointed on compassionate appointment but unfortunately expired and argues that once petitioner was extended benefit of Special Family Pension and as per the policy where she could have availed either of benefits of Special Family Pension or the Family Pension admissible under the normal rules, whichever is more so once the petitioner has already availed the benefit of Special Family Pension and accepted the same as a choice, now, she is not entitled for 2nd option.

6. I have heard the learned counsel for the parties and have perused the material available on record.

7. Since the petitioner has already availed the benefit of Special Family Pension which was valid till the date of superannuation of the deceased i.e. 30.04.2001 and now she cannot avail benefit of Family Pension, as claimed in terms of the family pension scheme, 1964. Moreover, petitioner has approached this court after the gap of more than 22 years, who is now harping

on the claim being a fence sitter.

8. In this regard, reference can be made to the decision of Hon'ble Apex Court in "***C. Jacob versus Director of Geology and Mining And Anr***" (2008) 10 SCC 115, wherein it was observed that the employee suddenly brought up a challenge to the order of termination of his services after 18 years and claimed all consequential benefits, held that the relief sought for was inadmissible. The legal position in this regard was laid out in the following terms:

"7. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim."

9. In my considered view, the petitioner was expected to assert her rights before an appropriate forum within a reasonable time. The legal notice dated 27.06.2022 (Annexure P-4) neither gives rise nor revive the cause of action, if it had already arisen in the past. The petitioner's move before this Court after availing benefit of Special Pension Scheme that too after the gap of 22 years is nothing but is an exercise in futility. It leaves no room for doubt that she slept over her rights and allowed the grass to grow under her feet for a long duration of over 22 years. This Court is of the considered opinion that the petitioner waived her rights to raise objections in this regard and is deemed to

have abandoned her claim. Taking into consideration the cumulative effect of the facts in this case, coupled with the legal principles cited above. This Court is satisfied that the claim of the petitioner is stale, highly belated after a span of over two decades, which even on merits does not deserves to be adjudicated upon by this Court.

10. Thus, in view of the forgoing paras, this petition is devoid of merits. Consequently same is dismissed.

11. All pending miscellaneous application(s) also stand disposed of.

November 03, 2023
Nisha Yadav

(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No