

respondents but no family pension was granted on the ground that the service book of the late husband of the petitioner was not available.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that the husband of the petitioner died in the year 1940 after which, the gratuity was given to the petitioner and the claim of the pension of the petitioner is not admissible as, on the relevant date, there was no scheme allowing the family pension in favour of the retired or the deceased employee and the scheme for grant of family pension was only extended for the first time in the year 1964, hence, the petitioner is not eligible under any of the Clauses of the 1964 Scheme for the grant of family pension in respect of the services rendered by her late husband, who unfortunately died on 05.05.1940.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

In order to get the family pension, the petitioner has to support the said claim based upon any rules and regulations or any scheme enforced by the State at that time. The said scheme should be applicable on the date, the claim becomes liable to be paid. In the present case, the husband of the petitioner died in the year 1940. Not even a single document has been placed on record to show that on the date of the death of the husband of the petitioner, there was any scheme which granted the petitioner the benefit of family pension. In the absence of any such scheme brought on record, no benefit of family pension can be allowed in favour of the petitioner.

With regard to the claim of the petitioner for grant of family pension on the basis of 1964 Scheme, the learned counsel for the petitioner has not been able to point out as to which Clause of the said scheme entitles

the petitioner to the grant of family pension in respect of any employee who had already retired or died prior to the implementation of the said scheme which was made operational in the year 1964.

Further, the 1964 Scheme has been reproduced by the respondents in their reply. Clause 1(b) of the Scheme clearly envisages that the said scheme is only applicable to the employees, who were in service on 30.06.1964. With regard to the Note 2 (1) (b) which is being relied upon upon the petitioner, it may be noticed that the said Rule has wrongly been interpreted by the petitioner as, the said Rule is only to govern the employees, who died or retired from service within the date of implementation of the 1964 Scheme i.e 01.07.1964 and the actual Publication of the Scheme. It is not admissible to all the Government employees who might have retired or died prior to 30.06.1964.

Keeping in view the said Clause, the claim of the petitioner for the grant of family pension is not maintainable, as no Rule allowing the said benefit in favour of the petitioner has been brought to the notice of this Court.

Hence, the present petition is dismissed.

Pending application, if any, also stands disposed of.

25-09-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking : YES/NO
Whether reportable: YES/NO