



CWP-1766-1999

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-1766-1999

Date of Decision:28.11.2024

SUMITRA DEVI

...PETITIONER(s)

Versus

STATE OF HARYANA AND ANR.

...RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Chirag Kundu, Advocate
for the petitioner.

Mr. Harish Rathi, Sr. DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of mandamus directing the respondents to release family pension to the petitioner with effect from 14.11.1971.

2. Learned counsel for the petitioner contends that the petitioner's husband was appointed as Maths Master in D.A.V. High School on 22.09.1967. The school was later taken-over by the Government with effect from 27.01.1969. Accordingly, he became Government servant, but unfortunately died soon thereafter on 13.11.1971. Her claim for family pension has wrongly been rejected by referring to the provisions of Family Pension Scheme 1964, since in terms of law laid down by this Court in *Sharmila Devi v. Uttar Haryana Bijli Vitran Nigam Limited*, 2002 (4) SCT



178, she is entitled to family pension even if the period of service rendered by her husband is less than five years.

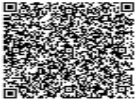
3. Learned State counsel, on the contrary, contends that provisions of the Family Pension Scheme, 1964 are binding on the petitioner, and in terms thereof minimum five years continuous service is required for grant of family pension to the deceased-employee's dependents. The petitioner's husband admittedly did not have the requisite service period, and had been given only gratuity on his demise. Accordingly, her claim cannot be considered.

4. Heard.

5. As per the facts apparent on record, the petitioner's husband had less than five years of service prior to his demise on 13.11.1971. Para 4 (1) of the Family Pension Scheme, 1964 reads as under:

4(1) The family pension is admissible in case of death while in service or after retirement on or after the 1st July 1964, if at the time of death the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. In case of death while in service, the Govt. servant should have completed a minimum period of five years of continuous service without break.” ** The family pension will not be admissible in case of death after retirement if the retired officer/official at the time of death was in receipt of gratuity only.

Note 1- The term 'five years' continuous service used in para 4(1), above is inclusive of permanent/temporary service in a pensionable establishment but does not include periods of extraordinary leaves, boy service and suspension period unless that is regularized by the competent authority.



6. A perusal of the Rule shows that minimum five years continuous service by the deceased is required to be entitled to family pension. Since the petitioner’s husband admittedly did not have the requisite service, her claim for family pension under the Scheme has been rightly rejected. The reliance placed by learned counsel for the petitioner on *Sharmila Devi* case is misplaced as the provisions of amended Family Pension Scheme (as amended in 1983) have been considered therein, which are not applicable to the petitioner’s case.

7. In view thereof, there is no merit in the petition and it stands dismissed.

8. Pending miscellaneous application(s), if any, shall also stand(s) disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

28.11.2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>