

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CM-4764-CWP-2024 in/&
CWP-7379-2019
Date of Decision :01.04.2024

Ravi Babu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Sangwan, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

CM-4764-CWP-2024

Present application has been filed for fixing the main writ petition at an actual date of hearing.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Main writ petition is taken up for hearing today itself.

CWP-7379-2019

1. In the present petition, grievance of the petitioner is that he is entitled for the grant of benefit of family pension after the death of his father namely, Sher Singh, who died on 06.01.2011.

The case being set up by the petitioner is that his father namely,

Sher Singh, who was working as Sweeper with the respondent-State had retired after taking voluntary retirement on 31.05.2000. Thereafter, wife of the Sher Singh namely, Roshni Devi died on 20.11.2010 and soon after, Sher Singh also unfortunately died on 06.01.2011. The petitioner claims to be the adopted son of said Sher Singh and is claiming that he is entitled for the grant of family pension up to the age of 25 years keeping in view the Family Pension Scheme, 1964 (in short, '1964 Scheme'), which govern the aspect for the grant of benefit of family pension.

3. Claim of the petitioner is being resisted by the respondents on the ground that as per the 1964, Scheme, the petitioner is not covered under the definition of family as given in Clause-4 of the 1964 Scheme, which provision has been reproduced in para-3 of the reply filed by the respondents. Further objection of the respondent-State is that as the petitioner was adopted in the year 2005 i.e. after the retirement of the employee concerned hence, keeping in view Note-1 under Clause-4 (ii) of the 1964, Scheme, child, who was adopted after the retirement of the employee concerned is not entitled for the grant of said benefit of family pension.

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

5. It is a conceded position between the parties that the benefit for the grant of family pension is being claimed by the petitioner under the 1964 Scheme. As per Clause-4 (ii) of the 1964 Scheme, wherein, 'family' has been described, 'wife in case of male officer', 'husband in the case of female officer', minor sons' and unmarried minor daughters are entitled for the grant of benefit of family pension. As per Note-1 to the said Clause-4

(ii) of the 1964 Scheme, children adopted legally before retirement are only entitled for the grant of benefit of family pension. There is no challenge to the said 1964 Scheme, hence, the claim of the petitioner is to be considered under the 1964, Scheme for the grant of family pension. It has already come on record that at the time of death of Sher Singh, age of the petitioner was 20 years, 07 months and 23 days, which shows that he was not minor and as per the 1964 Scheme, only minor son is eligible for family pension and that too up to the age of 25 years. Once, the petitioner was not minor at the time of death of Sher Singh, petitioner cannot be treated eligible for the grant of family pension under the 1964 Scheme.

6. Even otherwise, claim of the petitioner is barred under the Clause 4(ii) Note-1 of 1964 Scheme, according to which, only children adopted legally prior to the retirement are entitled for the grant of benefit of family pension and children adopted after retirement are not entitled for the said benefit of family pension. In the absence of challenge to the said provisions of 1964 Scheme, the petitioner cannot be allowed the benefit of family pension as he was adopted after the retirement of the employee concerned.

7. Qua the argument of the learned counsel for the petitioner that petitioner was minor at the time when he was adopted, it may be noticed that even if, it is assumed that petitioner was minor at the time of adoption even then, the age of the child at the time of death of the employee concerned is to be considered and concededly at the time of death of the employee concerned, after which, the claim has been raised by the petitioner for the grant of family pension, petitioner was not minor as he had already attained the age of majority and was more than 20 years of age hence, the

said argument cannot be accepted.

8. Keeping in view the facts and circumstances noticed hereinbefore, no ground for the interference by this Court is made out and the writ petition is accordingly dismissed.

9. Civil Miscellaneous application pending, if any is disposed of.

April 01, 2024 (HARSIMRAN SINGH SETHI)
aarti JUDGE

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