



CWP-10001-2021 (O&M)

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

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CWP-10001-2021 (O&M)
Date of Decision :18.05.2024

Neelam Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chander Pal Tiwana, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG. Haryana.

Mr. I.S. Sidhu, Advocate for respondent No.2.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, vide impugned order dated 16.01.2020 (Annexure P/3), the benefit of dual family pension has been denied to the petitioner, which act of the respondents is totally arbitrary and illegal and contrary to the decision, which has been taken by the respondents vide notification dated 07.02.2014 (Annexure R/2-2).

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3. Father of the petitioner namely, Mangat Ram was working in the Indian Army and after his retirement from Army, he was getting pension. Thereafter, he joined the Department of State Transport, Haryana



and after rendering the qualifying service of 27 years, 05 months and 04 days, he retired from service of the Government of Haryana on attaining the age of superannuation on 28.02.1985. Unfortunately, on 16.08.1992, father of the petitioner died and after the death of father of the petitioner, benefit of family pension was extended to the mother of the petitioner namely, Shanti Devi.

4. It may be noticed that initially as per the rules governing the service, benefit of dual pension was not available in the State of Haryana but vide Notification dated 07.02.2014 (Annexure R-T/3), Punjab Civil Services Rules, Volume -II, were amended so as to include that widows/widowers of such Government employees as are governed by the scheme shall be allowed to draw dual family pension i.e. one from civil side and another from military side.

Keeping in view the said amendment, mother of the petitioner was allowed the benefit of dual family pension vide letter dated 21.07.2015.

Unfortunately, mother of the petitioner also died on 17.12.2017. As the petitioner is the divorced daughter and was dependent upon her mother hence, after the death of her mother, Army authorities vide letter dated 06.11.2019 sanctioned the benefit of family pension in favour of the petitioner and the petitioner is getting the said family pension in respect of the Army service rendered by her late father however, the respondent-State of Haryana declined the benefit of family pension vide letter dated 16.01.2020 (Annexure P-3) in respect of the 24 years service, which the



father of the petitioner had rendered with the Transport department, Haryana for which, the mother of the petitioner was being paid dual family pension on the ground that petitioner is not entitled for dual pension.

5. Learned counsel for the petitioner submits that keeping in view the notification dated 07.02.2014, the respondents be directed to allow the petitioner the benefit of dual family pension in respect of the service rendered by the late father of the petitioner with the Transport department, Haryana.

6. Upon notice of motion, the respondents have filed reply wherein, it has been mentioned that as per the Notification dated 07.02.2014 (Annexure R-2/2) only widows/widowers have been made eligible for the grant of benefit of dual family pension not the dependents of the deceased employee hence, the petitioner cannot be granted the benefit of dual family pension after the death of her mother.

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

8. It may be noticed that the family pension is to be admissible upon the legal heirs as per the 1964 Scheme and as per the 1964 Scheme, widows/widowers are entitled for family pension but in case, there is a dependent child or divorced daughter, they are also entitled for the benefit of family pension. Merely that in the Notification dated 07.02.2014, only widows/widowers have been mentioned, it cannot be said that benefit of dual family pension will not be given to the other eligible legal heirs, who



are entitled for the grant of benefit of family pension. Once, the petitioner derives her right to get the family pension after the death of her mother, who was also getting the dual family pension, the said benefit cannot be denied to the petitioner by the respondents. It is not the case that the petitioner is not entitled for the grant of family pension in respect of the services rendered by her late father with the Government of Haryana. The only objection raised by the respondents is that the petitioner is not entitled for the benefit of dual family pension, which interpretation of the Instructions dated 07.02.2014 is totally arbitrary and illegal. Keeping in view the same, impugned order dated 16.01.2020 (Annexure P/3) passed by the respondents is set aside, The petitioner is held entitled for the grant of benefit of dual family pension, which was being paid to her mother after the death of her father.

9. The respondents are directed to release the benefit of dual family pension to the petitioner from the date the same was stopped qua the mother of the petitioner along with arrears.

10. Further, as the amount belonging to the petitioner has been withheld by the respondents without there being any valid reason, hence, keeping in view the settled principle of law settled by the Coordinate Bench of this Court in of *J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*, wherein, it has held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given, petitioner is entitled for the grant of benefit of family pension. The relevant paragraph of *J.S.*



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Cheema's case (supra) is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

11. The petitioner is also held entitled for the grant of benefit of interest @ 6% per annum on the arrears, which will be paid to her under this order from the date the amount became due till actual payment is made.
12. Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.
13. Civil miscellaneous application pending if any, is also disposed of.
14. Present petition is allowed in above terms.

May 18, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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