

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

2024:PHHC:125301



CWP No.11065 of 2022

Date of Decision: 23.09.2024

Kulwinder Kaur

....Petitioner

VS.

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rakesh Kumar, Advocate
for the petitioner

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to release 100% family pension instead of 50%.

2. The petitioner is second wife of Bhajan Singh who retired from Punjab Police and thereafter died in 2002. During his life time, Bhajan Singh was receiving pension. The petitioner solemnized marriage with Bhajan Singh after the death of his first wife. There was a son from first marriage and he, at present, is more than 35 years old. She has been sanctioned 50% of family pension whereas she claims that she is entitled to 100% family pension.

3. Mr. Rakesh Kumar, Advocate submits that after death of Bhajan Singh, petitioner started residing with Natha Singh and Natha Singh passed



away in 2014. As Natha Singh with whom the petitioner had not solemnized marriage, though respondents are alleging otherwise, has passed away, the petitioner is entitled to 100% family pension accruing on account of death of her husband Bhajan Singh. Her case is squarely covered by Rule 8.35 (Note 2) of Chapter VIII of Punjab Civil Services Rules. For the ready reference, the said Rule is reproduced as below:-

8.35. (1) A family pension will take effect from the day following the death of the Government employee or from such other date as the competent authority may decide.

(2) A family pension will ordinarily be tenable -

(a)(i) in the case of widow or mother until death or re-marriage whichever occurs earlier;

(ii) in the case of a minor son, or minor brother, until he attains the age of 18;

(iii) in the case of an unmarried daughter or minor sister, until marriage or until she attains the age of 21, whichever occurs earlier;

(iv) in the case of a father, for life.

(b) Notwithstanding anything contained in sub-clause -

(a) a widow who re-marries her deceased husband's brother and continues to live a communal life with or contributes to the support of other dependants of her deceased husband shall not be disqualified for the grant of her extraordinary pension otherwise admissible to her under these rules.

Note 1.- A family pension granted to a posthumous child should commence from the date of his/her birth and not from the date of death of his/her father.

Note 2.- The family pension of a widow will cease on re-marriage but when such re-marriage is annulled by divorce, desertion or death of the second husband her



pension may be restored upon proof that she is in
necessitous circumstances and otherwise deserving.”

4. Mr. Aman Dhir, DAG, Punjab submits that he has no instruction with respect to death of second husband of petitioner and if her second husband has passed away, she is certainly entitled to 100% family pension instead of 50%.

5. I have heard counsel for the parties and perused the record with their able assistance.

6. The respondents have sanctioned 50% family pension which proves that respondents have accepted claim of the petitioner. Once it is accepted that petitioner is entitled to 50% family pension, there is no reason to deny 100% family pension because there is no other claimant. The case of petitioner is squarely covered by judgment of this Court in **Jaspal Kaur and other vs. State of Punjab and others 2021(2) S.C.T. 748.**

7. In the wake of above-mentioned facts and legal position, the respondents are hereby directed to release 100% family pension to the petitioner from the date 50% family pension was released to her.

8. The petition stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

23.09.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No