



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(207)

CWP No. 5320 of 2013 (O&M)
Date of Decision : 14.10.2024

Meena Devi and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Verma, Advocate for the petitioners.
Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that petitioner No. 1 is the second wife of the deceased employee-Kedar Nath and petitioner Nos. 2 and 3 are the minor daughters born out of the said wedlock and after the death of Kedar Nath, who died while in service on 13.01.2005, petitioners are also entitled for the grant of benefit.

2. Learned counsel for the respondents has raised two objections. First objection is that as per the pensionary form filled up by the deceased employee, the two nominees which were given, does not include the name of petitioner No. 1 as the first nomination was in the name of the first wife and the second nominee was in the name of the nephew of deceased Kedar Nath. Learned counsel for the respondents further submits that after the death of Kedar Nath, all the benefits have already been given to his first wife



including the family pension and further, the marriage of Kedar Nath with petitioner No. 1 was during the subsistence of his earlier marriage, hence, no benefit can be given to the petitioners.

3. Learned counsel for the petitioners submits that the petitioner No. 1 is not claiming any benefit and only benefit is being claimed by the minor daughters of Kedar Nath born out of the wedlock between petitioner No. 1 and Kedar Nath. Learned counsel for the petitioners further submits that the first wife also died in the year 2011 after which, there is no other claimant for the grant of family pension, hence, minor daughters i.e. petitioners No. 2 and 3 are entitled for the family pension from the date, the first wife of Kedar Nath unfortunately died in the year 2011.

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

5. At the outset, it may be noticed that petitioner No. 1 has given up her claim qua any service benefit in the present petition. The claim only survives with regard to the two minor daughters born out of the wedlock of petitioner No. 1 with deceased employee-Kedar Nath.

6. Keeping in view the fact that the marriage of petitioner No. 1 with Kedar Nath was during the subsistence of his first marriage, the said marriage cannot be treated as a valid marriage so as to grant any benefit to petitioner No. 1, due to which, she has already given up his claim qua any service benefit admissible qua the service rendered by late Sh. Kedar Nath. With regard to the family pension, it may be noticed that the first wife of Kedar Nath continued to get the said family pension till she died in the year 2011. It has also been conceded between the parties that there is no issue out



of the first marriage and the only survivors are the petitioners No. 2 and 3, who are born out between the wedlock of petitioner No. 1 and Kedar Nath, the said fact has been conceded and has not been rebutted by the learned State Counsel on the basis of any fact.

7. As per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 575 of 2008 titled as ***Vidyadhari and others Vs. Sukhrana Bai and others***, decided on 22.01.2008, the legitimate children born out of a void marriage are entitled for the grant of service benefits. As per ***Vidyadhari and others (supra)***, the children born out of the second marriage, would be entitled for the service benefits, even if the marriage is void, as the children of the void marriage are also to be considered legitimate.

8. Learned counsel for the respondents has not been able to rebut the said proposition of law.

9. Keeping in view the above, the respondents were under obligation to transfer the family pension in favour of petitioners No. 2 and 3 after the death of the first wife, which the respondents failed to do and that too without any valid reason. The petitioners have been made to litigate for the last more than 13 years and the present petition is pending for the last 11 years.

10. Keeping in view the above, the respondents are directed to release the family pension admissible, which was being availed by the first wife of Kedar Nath upto her death equally in favour of petitioners No. 2 and 3 along with the arrears from the date, the first wife of Kedar Nath had died.

As, the law is already settled but the petitioners were made to litigate, on the



arrears of family pension on the arrears of family pension, the petitioners No. 2 and 3 will also be entitled for interest @ 6% per annum from the date same accrued till the actual payment.

11. It is directed that till the date both the petitioners remain entitled for the grant of family pension under the rules and the same be extended to them.

12. Present petition is allowed in above terms.

13. Pending miscellaneous application, if any, also stands disposed of.

October 14, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No