



CWP-20970-2020 (O&M)

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

**CWP-20970-2020 (O&M)
Date of Decision: 21.05.2024**

Angrejo Devi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. D.K. Sharma, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Ms. Sehaj Sandhawalia, Advocate,
for respondents No.2 to 4.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of *mandamus* thereby holding petitioner being widow of pensioner late Sh. Satpal entitled for family pension under the Punjab Service Rules Vol-II and the Family Pension Scheme, 1964 as adopted by the respondent-Nigam with a further prayer in the nature of *certiorari* for quashing reply dated 09.09.2020 (Annexure P-10) of respondent.

2. Learned counsel for the petitioner submitted that the husband of the petitioner, namely, Satpal was working as a Driver in the respondent-Nigam and retired on 31.01.2014 and thereafter, he died on 05.06.2019. He



further submitted that the petitioner is a widow of the aforesaid Satpal and she has two sons and one daughter from the said marriage. A matrimonial dispute was going on between the petitioner and her husband for a number of years and with regard to that, a petition under Section 127 Cr.P.C. for enhancement of maintenance was filed by the petitioner and an order passed by the District Judge, Family Court, Ambala has also been annexed as Annexure P-8. He submitted that a perusal of the aforesaid order (Annexure P-8) would show that the petitioner along with her minor children at that time had filed a petition for grant of maintenance and thereafter for the enhancement of the maintenance and a perusal of Para No.3 of the aforesaid order (Annexure P-8) would show that the respondent had rather admitted that the petitioner is his legally wedded wife and it was also stated that four children were born out of the wedlock and thereafter, the petition was disposed of. He further submitted that further perusal of the aforesaid judgment passed by learned District Judge, Family Court, Ambala would show that earlier on number of occasions the husband of the petitioner had been paying maintenance to the petitioner through various mode including money order.

3. Learned counsel for the petitioner submitted that now when the reply has been filed by the respondent-Nigam in which it has been so stated and also in the impugned order that the respondents could not ascertain as to whether the petitioner is a legally wedded wife of the aforesaid Satpal or not. In this regard, he referred to Annexure P-2 which is a duly sworn affidavit of the petitioner before a Magistrate giving description of all the children and it has also been stated that she has not re-married and her husband has no



other widow except her. Learned counsel for the petitioner also referred to the Aadhaar Card of the petitioner (Annexure P-3) wherein it has been clearly stated that the petitioner is wife of the aforesaid Satpal and the address of the petitioner is same as that of the husband of the petitioner. He further submitted that there is another affidavit (Annexure P-6) pertaining to the legal heirs. He submitted that thereafter vide Annexure P-9, a legal notice was served upon the respondents and vide Annexure P-10 the relief has been declined to the petitioner on the ground that the factum of marriage could not be ascertained because there is a difference in residential address of the petitioner from that of her husband. He further submitted that once there was a matrimonial dispute between the husband and the wife and the petitioner was living separately from him then the residential address was bound to be different and that itself cannot become a ground for denial of the family pension.

4. On the other hand, Ms. Sehaj Sandhawalia, learned counsel for respondent Nos.2 to 4 while referring to the reply submitted that when the husband of the petitioner had filled up his pension forms which is attached as Annexure R-1, with regard to details of family members, he had only mentioned himself and did not mention anybody's name in the family details and similarly vide Annexure R-2, he declared that he is entitled for the retiral amount and besides him nobody else is the successor of his pension money and such forms were filled up by the husband of the petitioner himself and therefore, there was no occasion for the respondents to have granted family pension to the petitioner because it was the case of the husband of the petitioner himself that he has no other family member. She



also submitted that the order (Annexure P-8) was never supplied to the respondent-Nigam and therefore, there was no occasion to have considered the aforesaid order Annexure P-8.

5. I have heard the learned counsels for the parties.

6. It is a case where although the husband of the petitioner, who had retired and thereafter died and his pension document does not provide any description of his family members but a perusal of Annexure P-8 would show that the petitioner was the legally wedded wife of the aforesaid Satpal. A perusal of Annexure P-8 which is a judgment passed under Section 127 Cr.P.C. by the District Judge, Family Court, Ambala in the year 2012, which was prior to the retirement of the petitioner would show from the Memo of Parties that the respondent has been mentioned as “Sat Pal son of Sh. Daulat Ram resident of Village Hema Majra, Tehsil and District Ambala at present working as employee in D.H.V.P.N. c/o 132, K.B.S./Station Ately Mandi, District Mohindergarh” and the aforesaid address is the same as that of the husband of the petitioner and there is no discrepancy with regard to the same. Similarly, there are other documents vide Annexures P-2 & P-3, which are the affidavits and Aadhaar Card of the petitioner, which also reflects the name of husband of the petitioner as Satpal. In Para No.3 of the aforesaid judgment (Annexure P-8) it has been so observed by the District Judge of the Family Court, Ambala, that when the husband of the petitioner had on merits not disputed the factum that the petitioner, namely, Angrejo Devi is his legally wedded wife and four children were born out of the wedlock, out of which, one has passed away. Thereafter, it has been so stated in the aforesaid order that for number of times the aforesaid Satpal



had given maintenance to the petitioner.

7. A mere fact that the address of the petitioner did not match with that of her husband would not be a ground for denial of family pension because a perusal of Annexure P-8 would show that for a long time there has been a matrimonial dispute between them and there is nothing on the record to show that the marriage has been dissolved by decree of divorce. Rather on the other hand, an affidavit has been executed by the petitioner duly sworn before the Executive Magistrate wherein she so deposed that she has not re-married and that she is the legally wedded wife of the aforesaid Satpal. Therefore, it is clear that the petitioner was the legally wedded wife of the aforesaid Satpal and is entitled for the grant of the family pension being widow.

8. In view of the aforesaid position, the present petition is allowed. The respondents are directed to fix the family pension of the petitioner after calculating the entire arrears to pay her along with interest @ 6% per annum (simple) from the date of its accrual till the date of its disbursement within a period of three months from today.

9. Since the present petition is filed by a widow and she has been denied family pension because of non-existent and unreal reasons, the petitioner is also entitled for costs of ₹50,000/- (Rupees Fifty Thousand Only) which shall be paid by the respondents within the aforesaid period of three months from today.

21.05.2024

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |