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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-30086-2018
Date of decision: 08.02.2024

SAPNA DEVI

...Petitioner

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM (UHBVN)& OTHERS
...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. C. S. Bakhshi, Advocate
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction for directing the respondents to restore family pension of the petitioner allowed under PPO No.6977 dated 26.03.1996, which was stopped on the ground that the petitioner had re-married.

2. Learned counsel for the petitioner submitted that the husband of the petitioner was working as ALM in the respondent-Nigam and he died on 01.05.1995 and the petitioner being a widow of the aforesaid employee and also being entitled for the family pension was granted the family pension and the retiral benefits by the respondent-Nigam themselves. He further submitted that thereafter, the aforesaid family pension was stopped by the respondent-Nigam

with effect from 01.08.1996 on the ground that the petitioner had re-married and regarding which thereafter, she had also submitted some claim for maternity relief. He also submitted that by virtue of Rule 4(iii)(a) of the Punjab Civil Services Rules, Volume-II, Family Pension Scheme, 1964 it has been so provided that the pension is admissible in case of widow/widower upto the date of death or re-marriage, whichever is earlier. He further submitted that although there is aforesaid provision under the Rules but he has referred to a judgment passed by a Coordinate Bench of this Court vide Annexure P-5, which was decided on 05.09.2009 in which after interpreting the aforesaid Rule, it was held that no discrimination can be made and no differential treatment can be given to a lady with regard to her re-marriage when she is otherwise entitled for family pension. He further submitted that the case of the petitioner is squarely covered by the aforesaid judgment passed by a Coordinate Bench of this Court vide Annexure P-5.

3. On the other hand, learned counsel for the respondents submitted that the reason for stopping the family pension of the petitioner was only in view of the Rule 4(iii)(a) of the Punjab Civil Services Rules, Volume-II, Family Pension Scheme, 1964. He further submitted that so far as the applicability of the aforesaid judgment passed by a Coordinate Bench of this Court vide Annexure P-5 is concerned, it cannot be said that it is distinguishable in the present case and the ratio of the said judgment will apply in the present case.

4. I have heard the learned counsel for the parties.

5. The only issue involved in the present case is as to whether the respondent-Nigam can press into service the aforesaid Rule 4(iii)(a) of the Punjab Civil Services Rules, Volume-II Family, Pension Scheme, 1964 qua the

petitioner, who was a widow and had re-married. This Court is of the view that the case of the petitioner is squarely covered by the aforesaid judgment passed by a Coordinate Bench of this Court vide Annexure P-5.

6. Consequently, the present writ petition is allowed. The Respondent-Nigam is directed to again start the family pension of the petitioner and also calculate the arrears and pay the same to the petitioner alongwith interest @ 6% per annum. The entire exercise shall be carried out within a period of two months from today and arrears shall be paid to the petitioner within a period of two months thereafter.

08.02.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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