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**IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 24.01.2024***

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**W.P.(C) 4473/2019 & CM Appl.19881/2019****THE COMMISSIONER OF POLICE****..... Petitioner**

Through: Mrs. Avnish Ahlawat, Standing  
Counsel with Mrs. Tania Ahlawat,  
Mr.Nitesh Kumar Singh, Ms.  
Laavanya Kaushik, Ms. Aliza Alam,  
Mr. Mohnish Sehrawat, Advocates.

versus

**SUNITA & ANR****..... Respondents**

Through: Mr. Sanjay Dewan, Mr. Anish  
Dewan, Mr. Nahush Khara,  
Advocates for R-1.

**CORAM:****HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)**

1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 25.10.2018 passed by the learned Central Administrative Tribunal in O.A. 1468/2017.
2. Vide the impugned order, the learned Tribunal has allowed the O.A preferred by the respondent no.1 in the following terms:

*“In view of the above position and also keeping in view the aforesaid observations of the Apex Court rendered in the case of **Smt. Violet Issac (supra)**, it is clear that the applicant is entitled for grant of family pension being a legally wedded wife of the deceased Govt. employee. Accordingly, the matter is remitted back to the respondents to finalize the grant of family pension of the applicant of this OA in the light of the decision of Additional Session Judge, Sonapat dated 18.4.2001. The order*



*shall be passed in this regard within a period of two months from the date of receipt of certified copy of this Order.*

3. Learned counsel for the petitioner submits that the impugned order is wholly perverse and is liable to be set aside. He submits that the learned Tribunal has failed to appreciate that the petitioner was duty bound to release family pension of Late Head Constable Hawa Singh in favour of respondent no.2 as her name alone was mentioned as his wife in the pension nomination form submitted by him while in service. Furthermore, joint photographs of the respondent no. 2 with Late HC Hawa Singh, as per rules, were also available on the petitioner's record and, therefore, the petitioner could not be faulted in releasing pension in her favour.
4. On the other hand, learned counsel for the respondent no.1 supports the impugned order. He submits that even if the name of the respondent no.1 as the wife of Late HC Hawa Singh was not reflected in the petitioner's record, the fact remains that she has on 18.04.2001 been declared as his legally wedded wife by a Court of competent jurisdiction i.e the learned Additional Sessions Judge, Sonipat, which decision has not been assailed by any party. He, therefore, contends that once respondent no.1 has been declared as the legally wedded wife of Late HC Hawa Singh, it is she alone who is entitled to receive his family pension.
5. Mr. Dewan, also draws our attention to letter dated 07.10.2011 addressed by the respondent no.2 to the Deputy Commissioner, Sonipat. In the said letter, the respondent no.2 has described herself to be the widow of Late Kawal Singh. She is consequently receiving



widow pension of Late Kawal Singh, who in fact is the elder brother of late HC Hawa Singh. He, therefore, contends that once it is the stand of the respondent no.2 that she was the widow of Late Kawal Singh and not of Late HC Hawa Singh, the learned Tribunal was justified in accepting the respondent no.1's plea that she being the legally wedded wife of late HC Hawa Singh was entitled to receive his family pension.

6. He further submits that the impugned order only directs the petitioner to consider the case of respondent no. 1 for grant of family pension as the widow of Late HC Hawa Singh and, therefore, prays that the writ petition be dismissed. Finally he submits, on instructions from the respondent no. 1 who is present in Court, that she would be satisfied if this family pension is granted to her prospectively without making any recoveries from the respondent no. 2, who was being this family pension for the last many years.

7. Having considered the submissions of learned counsel for the parties, and perused the record, we find absolutely no merit in the petition. Once it is admitted by the petitioner that the decision of learned Additional Sessions Judge dated 18.04.2001 declaring the respondent no.1 as the legally wedded wife of Late HC Hawa Singh has attained finality, the petitioner cannot reject her claim for grant of family pension only because her name is missing from the nomination form filled by Late HC Hawa Singh. In the light of a judicial pronouncement regarding the status of the respondent no. 1 as the wife of Late HC Hawa Singh, the petitioner cannot be permitted to deny her the rightful pension, which she is entitled to receive.



8. We may also note that the respondent no. 2, who has been receiving the family pension as the widow of Late HC Hawa Singh, has not come forward to oppose the claim of respondent no. 1. In any event, we find that vide the impugned order, the learned Tribunal has only directed the petitioner to consider the case of respondent no.1 for grant of pension, and has not *per se* directed release of pension to her. We, therefore, find absolutely no reason to interfere with the impugned order.

9. For the aforesaid reasons, the writ petition being meritless is dismissed. As prayed for, the petitioner is granted four weeks' time to take a decision in terms of the impugned order. It is, however, directed that while considering the case of respondent no.1 as directed under the impugned order, the petitioner will also take into account the letter dated 07.10.2011, written by the respondent no.2 to the Deputy Commissioner, copy whereof has been placed on record.

10. It is made clear that in case the respondent no.1 is found to be entitled to receive family pension as the widow of Late HC Hawa Singh, the same will be paid to her only with prospective effect. However, in case the petitioner rejects the claim of respondent no.1, it will be open for the respondent no.1 to seek legal recourse, as permissible in law.

**REKHA PALLI, J**

**RAJNISH BHATNAGAR, J**

**JANUARY 24, 2024/ib**