



2024:DHC:8317-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 25.10.2024***

+ W.P.(C) 8407/2022

SMT. RUPA RANI

.....Petitioner

Through: Mr. Randhir Singh Kalkal, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Nirvikar Verma, SPC with
Mr. O.P. Verma, Adv.
SI Prahlad, CISF.
SI Shiv Kumar CT/GD Mohit
Kumar.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. The present petition has been filed by the petitioner, praying for a direction to the respondents to restore the family pension of the petitioner after stopping the pension being granted to her daughter. The petitioner also challenges the Order dated 18.11.2021 passed by respondents informing her that as per the rules, she is not eligible for grant of family pension after remarriage.

Case of the petitioner

2. It is the case of the petitioner that on the unfortunate demise of



2024:DHC:8317-DB



her husband on 26.08.2001, who was enrolled in the Central Industrial Security Force (in short, 'CISF'), the petitioner was granted family pension *vide* Pension Payment Order (PPO) No.232830200219 dated 07.02.2002 w.e.f. 27.08.2001. She remarried on 13.02.2006 and thereafter, the family pension was stopped and transferred in the name of her daughter from the first husband.

3. The petitioner submitted a representation dated 15.07.2016 seeking restoration of her family pension. Having received no response to the same, the petitioner sent a legal notice dated 15.10.2016 to the respondent. In reply to her legal notice, she was informed that as per the O.M. of Government of India, Department of Pension & Pensioners Welfare F.No. 38/37/08-P&PW(A) dated 02.09.2008, only a childless widow of a deceased Government employee is entitled to receive family pension after her remarriage. The petitioner was informed that as she had a daughter from her earlier marriage, she was not eligible for the grant of the family pension.

4. Still being aggrieved, the petitioner made another representation dated 24.12.2020 to the respondents. The respondents again by the Impugned Order dated 18.11.2021 informed the petitioner that she was not eligible for the grant of the family pension.

5. Aggrieved of the above, the petitioner has filed the present petition claiming the above mentioned relief.

Submissions of the learned counsel for the petitioner

6. The learned counsel for the petitioner places reliance on the



Order dated 10.09.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (in short, 'CAT') in Original Application (in short, 'OA') No. 2822/2016 titled ***Renu Gupta (Pension Claimant) vs. Union of India & Ors.***, submits that in the said case as well, the petitioner therein had remarried the brother of her late husband and had a son; her family pension was stopped and the same was granted to the son; the petitioner therein had approached the learned CAT seeking restoration of her family pension; and the learned CAT, *vide* the above said Order, after placing reliance on the OM dated 01.04.2011 of the Ministry of Personnel, Public Grievance & Pensions bearing No. 1/4/2011-P&PW(E), granted relief to the petitioner therein holding that she is entitled for the family pension under the Central Civil Services (Pension) Rules, 1972 (in short, 'CCS (Pension) Rules') and that there is no legal bar in transferring the pension in her name. The learned counsel for the petitioner submits that the petitioner is therefore, entitled to the family pension even though he has a daughter from her first marriage and has remarried.

Submissions of the learned counsel for the respondents

7. On the other hand, the learned counsel for the respondents, by placing reliance on Rule 54(6) of the CCS (Pension) Rules submits, that in terms thereof, family pension is payable in case of a widow or widower, up to the date of death or remarriage. He submits that the *proviso* to the said Rule states that in case of a childless widow, if her income from all other sources is less than the amount of minimum family pension and the dearness relief admissible thereon, only then



the family pension shall continue to be payable to her.

8. He submits that the order passed by the learned CAT in **Renu Gupta** (*supra*) cannot assist the claim of the petitioner inasmuch as it appears that the son mentioned therein was from the second husband of the petitioner therein and not from the deceased husband.

Analysis and findings

9. We have considered the submissions made by the learned counsel for the parties.

10. Rule 54(6) of the CCS(Pension) Rules so far as is relevant to the present petition, reads as under:

“(6) The period for which family pension is payable shall be as follows:-

(i) subject to first proviso, in the case of a widow or widower, up to the date of death or re-marriage, whichever is earlier;

xxxxx

Provided that family pension shall continue to be payable to a childless widow on re-marriage, if her income from all other sources is less than the amount of minimum family pension under sub-rule (2) of this rule and the dearness relief admissible thereon”

11. The above rule clearly provides that family pension is payable in case of a widow up to the date of her death or remarriage. The *proviso*, however, states that a family pension shall continue to be given to a “**childless widow on re-marriage**” if her income from all other sources is less than the amount of minimum family pension under sub-rule (2) of the said Rule and the dearness relief admissible



thereon.

12. In the present case, admittedly, the petitioner had been blessed with a daughter from her deceased husband, who was the employee with the CISF. In terms of Rule 54(6)(i) of the CCS(Pension) Rules read with its *proviso*, the petitioner, therefore, was not entitled to receive family pension upon her remarriage.

13. The OM dated 01.04.2011 is also applicable only to a “childless widow”. It has also been quoted in the Judgment of **Renu Gupta** (*supra*), and we reproduce the same as under:

““4. The issue has been examined in this Department in consultation with Department of Expenditure. It is hereby clarified that the childless widow of a deceased Central Government employee who had expired before 1.1.2006, shall be eligible for family pension in the light of 6th CPC’s recommendations irrespective of the fact that the remarriage of the widow had taken place prior to/on or after 1.1.2006. The financial benefits in such cases, however, will accrue from 1.1.2006. This, however, would be subject to the fulfilment of certain conditions laid down therein, including the income criterion that the income of the widow from all sources does not become equal to or higher than the minimum prescribed for family pension in the Central Government.”

(Emphasis supplied)

14. Therefore, neither under Rule 54(6) of CCS (Pension) Rules nor under the OM 01.04.2011, the petitioner is entitled to receive family pension post her remarriage.

15. From the Judgment of the learned CAT in **Renu Gupta** (*supra*), it cannot be ascertained if the son of the petitioner therein was from



2024:DHC:8317-DB



her first marriage or from the second marriage. In any case, in view of Rule 54(6) of CCS (Pension) Rules and the OM dated 01.04.2011, the petitioner herein cannot be granted the relief claimed.

16. Accordingly, we find no merit in the present petition and the same is dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 25, 2024/ab/sk/VS

Click here to check corrigendum, if any