

**LPA-16-2022 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****201****LPA-16-2022 (O&M)
Date of Decision: 13.05.2025**

Union of India and Ors

... Petitioner(s)

Versus

Jasvir Kaur @ Jasbir Kaur and Ors

.. Respondents

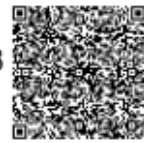
**CORAM : HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE H.S.GREWAL**Present:- Mr. Pankaj Gupta, Senior Panel Counsel
for the Union of India/appellants.

Ms. Ekta Thakur, Advocate for the respondents.

Sanjeev Prakash Sharma, J.(Oral)

1. The challenge placed before this Court is to the judgment dated 18.08.2021 passed by the learned Single Judge in CWP No. 35974 of 2019, whereby the learned Single Judge has held the respondent No.1(writ petitioner)- Jasvir Kaur wife of deceased Joginder Singh who remarried her husband's brother Naginder Pal Singh to be entitled to family pension. The directions are also to entitlement of children born out of wedlock with deceased Joginder Singh as well as family pension on account of death of the second husband Naginder Pal Singh.

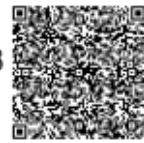
2. Learned counsel for the UOI submits that the order passed by the learned Single Judge is erroneous and he has wrongfully held the wife/respondent No.1 to be entitled to family pension qua deceased Joginder Singh after she got remarried to Naginder Pal Singh. Learned counsel further



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submits that as per provisions under Rule 54 of Central Civil Services (Pension) Rules, 1972, a widow is entitled to the family pension upto the date of death or remarriage. Since respondent No.1 remarried by customary marriage of Krevia after one and a half years of death of Joginder Singh, she was not entitled to receive family pension thereafter, but as she continued to submit certificate reflecting that she has not entered into remarriage, family pension was being released to her qua deceased Joginder Singh. It so happened that the second husband i.e brother of deceased Joginder Singh was also in CISF and on account of his death, the widow, namely, Jasvir Kaur again requested for grant of family pension qua Naginder Pal Singh. Resultantly, an enquiry was conducted and it was noticed that the family pension was being wrongly released to Jasvir Kaur qua Joginder Singh and therefore, her family pension was stopped. The learned Single Judge has wrongly held her to be entitled to family pension in spite of getting remarried, relying on Pension Regulations for the Army, 1961 Part I, which had no application to CISF forces. He, therefore, submits that the family pension payment made to the respondent was wrongful and therefore, the UOI had taken action in accordance with rules and stopped the said family pension. Learned counsel further submits that so far as entitlement of children of Joginder Singh are concerned, since they have been adopted by the second husband of Jasvir Kaur, namely, Naginder Pal Singh, they would also not be entitled to family pension and learned Single Judge has wrongly held them to be so entitled. He, therefore, submits that the order passed by learned Single Judge deserves to be set-aside.



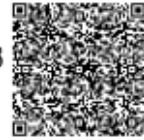
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3. Per contra, learned counsel for the respondent submits that so far as Jasvir Kaur is concerned, she was even as per Central Civil Services (Pension) Rules, 1972 entitled to family pension till she got remarried. Thereafter, in terms of Rules 1972, the other minor children of Joginder Singh would be entitled to receive family pension and the same would be paid to the guardian of such children. Even if the name of her second husband was reflected in the school record, the same would not disentitle the children from receiving their due family pension qua their father Joginder Singh. It is her further submission that the name of the father was changed only of two of the children but the eldest daughter continued to reflect herself as daughter of late Joginder Singh until she attained the age of 30 years and, therefore, she was entitled to the family pension as per rules. She further submits that so far as the widow Jasvir Kaur is concerned, since her second husband died, she has become entitled to family pension qua Naginder Pal Singh and her family pension could not have been stopped.

4. We have considered the submissions made by parties.

5. After having gone through the judgment passed by the learned Single Judge, we are of the view that while the relief has to be given to the certain extent to the writ petitioner- Jasvir Kaur, the order passed by the learned Single Judge is not sustainable in law. We find that the approach adopted by the learned Single Judge although may be with compassion and sympathy, but the law is otherwise. The pension, which was applicable to the writ petitioner- Jasvir Kaur, was under the Central Civil Services (Pension) Rules, 1972 and reference to Pension Regulations for the Army, 1961 Part I by the learned Single Judge was erroneous. The said aspect is, therefore, liable to be set aside.



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As regards Jasvir Kaur is concerned, we do not agree with the submissions of learned counsel for the appellant that she had deliberately reflected herself to be unmarried as we find that she is completely illiterate and her life certificates having her thumb impressions. It appears that she has put her thumb impressions on dotted lines and everything has been filled up by the concerned bank officials. While first part of the certificate is in reference to the life certificate, there is one part, which is also related to remarriage.

6. Be that as it may, fact remains that she remarried after one and a half year of her husband's death and, therefore, after one and a half year, she was not entitled to receive any family pension in terms of Rule 54 of Pension Rules, 1972. But, at the same time so far as the minor children are concerned, they were entitled to receive family pension and we, therefore, deem it appropriate, in the interest of justice, to treat the family pension released though in favour of Jasvir Kaur to be actually in favour of children till they attain majority. Merely because the name of the second husband is reflected in the school record, the same would not disentitle the children of their rightful claim of family pension of their late father.

7. The action of the UOI in withholding the family pension of the writ petitioner to the extent of her claiming the same as widow of Joginder Singh was justified as she got remarried. However, we noticed that if her husband was in CISF and he expired on 18.07.2019, thus, after 18.07.2019, the writ petitioner- Jasvir Kaur, who was legally wedded wife of Naginder Pal Singh, would be entitled to all benefits, which may accrue to her on account of death of Naginder Pal Singh, which includes family pension and/or other retiral benefits as per law. The UOI would, therefore, be required to conduct exercise



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and release the dues, which would be payable to her as widow of Naginder Pal Singh. With regard to the family pension as children of Naginder Pal Singh, we find that once the children are receiving family pension relating to as sons and daughters of late Joginder Singh, they cannot take dual advantage and would continue to draw family pension qua Joginder Singh till they attain the requisite age as per law under Rules 1972.

8. We, accordingly, dispose of this appeal with aforesaid modification of the order dated 18.08.2021 passed by the learned Single Judge.

9. Pending application(s), if any, shall also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(H. S. GREWAL)
JUDGE

13.05.2025
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No