



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

236

CWP-2618-2020

Date of decision: 09.01.2025

Rajinder Bir Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K. Arora, Advocate
for the petitioner.

Mr. Amarpreet Singh Bains, AAG, Punjab.

Mr. Sehajbir Singh and Ms. Karishma Sharma, Advocates
for respondent No.4.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing of the memo dated 20.11.2019, Annexure P-11, whereby the prayer of the petitioner to release family pension and other death-cum-retirement benefits for the service rendered by her husband since deceased from 20.09.1988 to 26.11.1998 prior to his transfer to PUDA, has been declined on the ground that his wife is not entitled to separate family pension.

2. Learned counsel submits that the petitioner has not been granted family pension at all and it was not a case of any separate family pension. The facts refers to are that the husband of the petitioner, who was working as Junior Engineer, appointed on 20.09.1988 in Department of Housing and Urban Development, was given an option for transfer on deputation to Punjab Urban Planning and Development Authority, in the wake of the fact that the assets of the department had been transferred as per the decision dated 29.04.1991, Annexure R-1, the relevant paras whereof read thus:-



“With a view to ensure the proper and speedy development and maintenance of all the existing Urban Estates in Punjab; to provide an integrated approach to their maintenance and development; to ensure that there is a full provision of the necessary infrastructure and facilities in these existing Urban Estates; as well as to generate resources for the establishment of new Housing Development and Improvement schemes and extended/satalite townships; the President of India in exercise of the powers vested under Section 3 of the Punjab Urban Estates (Development & Resolutions) Act, 1964, is pleased to order with immediate effect the transfer of all the assets pertaining to the existing Urban Estates in Punjab and vest them in the Punjab Housing & Development Board, upon the following terms & conditions:-

....(F) Only such employees/officers of the Department of Housing and Urban Development would be transferred on deputation to the Punjab Housing Development Board, who are willing to go on deputation. There shall be no retrenchments of any serving staff of the Department of Urban Development as a consequence of this decision. Nothing shall be done in any way whatsoever to adversely affect the rights of the employees of the Department of Housing and Urban Development to future promotion and prospects as well at their inter-se-seniority and retirement/pensionary benefits.”

3. Reference is made to Rule 5.3 of the Punjab Civil Services Rules, Volume-II, which reads thus:-

“5.3. (1) When a Government employee is transferred from pensionable Government service to a non-pensionable establishment, he cannot be granted any pension or gratuity admissible to him for the qualifying portion of his service until he actually retires from the non-pensionable establishment to which he is transferred.

(2) A permanent Government employee who may be permitted to be permanently absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by Government or in or under a body controlled or financed by Government, or Municipality, Panchayat Samiti or Zila Parishad, shall, if such absorption is declared by Government to be in the public interest, be deemed to have retired from Government service from the date of such absorption and shall be eligible to receive retirement benefit which he may have elected or deemed to have elected, and from the date of such absorption or the date of his voluntary retirement, whichever is later. Each such Government employee is required to exercise an option within six months of his absorption for either of the alternatives indicated below—



(a) receiving the monthly pension and death-cum-retirement gratuity under the usual Government arrangements; or

(b) receiving the death-cum-retirement gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation table obtaining on the date from which the commuted value becomes payable.”

4. Learned counsel further submits that it is apparent from the decision of 1991 that the same was taken in public interest and thus the right of employees stands protected by Clause F thereof. In terms of above Rule, the State Govt. is yet to take a decision, without which the claim could not be rejected. In this regard, reliance is placed on the judgment of this Court in **Mukhtiar Singh vs. State of Punjab and others**, CWP-22642-2012, decided on 05.10.2016, against which no challenge was made, a case of an employee transferred to the Punjab State Leather Development Corporation, who was allowed pension and other pensionary benefits by taking into account the service rendered in Punjab Government Tanning Centre, Kotakapura, which was pensionable.

5. Learned counsel states, on instructions, that the matter is required to be decided by the State Govt. in a time bound manner, to which learned State counsel has no objection.

6. In view of the above and without commenting upon the merits of the case, this petition is hereby disposed of with a direction to the respondent-State to decide the issue involved, keeping in view the aforesaid decision and judgment referred to above, within a period of four months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner. Upon doing so, after notice and hearing offered to her and if found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to her interest, the same shall contain reasons



and petitioner shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

09.01.2025
Hemant

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