2025:PHHC:109411

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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223 **CWP-4792-2023 (O&M)**
Date of Decision: 20.08.2025

GURMEET KAUR ...Petitioner

Vs.

CHANDIGARH ADMINISTRATION AND ORS. …Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. S.M. Tripathi, Advocate
for the petitioner

Mr. Aditya Pratap Duggal, Advocate
for respondents No.2 and 3

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<u>JAGMOHAN BANSAL, J. (ORAL)</u>

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking direction to respondent to release family pension.

2. Mr. Nachhater Singh was working with Municipal Corporation, Chandigarh as Gardner. He passed away on 10.02.2011 while in harness. During his lifetime he solemnized two marriages. First marriage was solemnized with Smt. Sher Kaur. From this wedlock three children were born. The relations between deceased-employee and Smt. Sher Kaur turned bitter and Sher Kaur left company of her husband. She solemnized second marriage with Mr. Piara Singh. Smt. Sher Kaur solemnized second marriage and deceased also solemnized second marriage with Smt. Gurmeet Kaur (petitioner). No child was born from

this wedlock. The first wife of deceased-employee passed away on 04.08.2021. The petitioner approached Civil Court seeking Succession Certificate. Civil Judge (Sr. Division) U.T. Chandigarh vide judgment dated 10.01.2022 concluded that petitioner is entitled to Succession Certificate in equal share with other legal heirs of deceased-employee. Succession certificate dated 10.01.2022 was issued in terms of Section 374 of Indian Succession Act, 1925. It was ordered that petitioner would be entitled to 1/5th of DCRG, Group Insurance Scheme, Leave Encashment, Provident Fund and LIC policies of the deceased-employee.

3. The petitioner claims that as per Punjab Civil Service Rules adopted by Municipal Corporation, Chandigarh, the petitioner despite being second wife is entitled to family pension especially when first wife has passed away.

4. *Per contra*, learned counsel for the respondents No.2 and 3 submits that petitioner was second wife of the deceased-employee. Second marriage is not permissible. It amounts to misconduct. The employee could be dismissed from service on account of second marriage. It is settled proposition of law that second wife cannot claim family pension.

5. I have heard learned counsel for the parties and perused the record of the case.

6. The claim of the petitioner is based upon Punjab Civil Service Rules(Volume II). Chapter VI of the Rules deals with family pension. Expression 'Family' has been defined under Rule 6.17(3) of the

Rules. The said Rule reads as:-

> *6.17 (3) "Family" for purposes of this Scheme will include the following relatives of the Government employee:-*
>
> *(a) wife in the case of a male Government employee and husband in the case of a female Government employee;*
>
> *(b) judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;*
>
> *(c) sons upto the age of twenty-five years;*
>
> *(d) daughters upto the age of twenty-five years irrespective of their marriage but unmarried daughters shall be included in the family irrespective of their age; and*
>
> *(e) parents who were wholly dependent on the Government employee, when he/she was alive provided the deceased employee had left behind neither a widow nor a child."*

7. Note 1 of Rule 6.17 provides that when a Government employee is survived by more than one widow the pension would be paid to them in equal share. Note 1 reads:-

> ***"Note 1**.- "pay" for this purpose means the pay as defined in rule 2.44 of the Punjab Civil Services Rules, Volume I, Part I, which the person was drawing on the date of his death while in service or immediately before his retirement. If on the date of his death while in service or immediately before his retirement, a person has been absent from duty on leave, including extraordinary leave, or under suspension, "pay" means the pay which he draws*

> *immediately before proceeding on such leave or such suspension and the term "pay" shall also include dearness pay."*

From the perusal of above-quoted note, it is evident that in case an employee is survived by more than one widow, all are entitled to pension in equal share. In the case in hand, first wife of deceased employee left company of the employee and solemnized second marriage. There is nothing on record disclosing that second marriage of first wife of deceased-employee was ever declared illegal. The deceased employee solemnized second marriage with petitioner after second marriage of his first wife. The respondent-Department never initiated departmental proceedings against deceased-employee on the ground of second marriage. It means second marriage was never disputed by respondent-Department. The first wife has passed away on 04.08.2021. The Civil Court has issues Succession Certificate in favour of the petitioner. She has been given 1/5th share of retiral dues of the deceased-employee. Children from the first wife of the deceased-employee are more than 25 years old, thus, they are not entitled to family pension. It is only petitioner who is surviving widow and claiming family pension. She is 73 years old. The respondent is not disputing second marriage of the deceased-employee, however, attempting to deny family pension to the petitioner on the ground that second wife is not entitled to family pension. The respondent is not disputing that service of deceased-employee was governed by Punjab Civil Service Rules. As per Punjab Civil Service Rules, if there are more than one widow, all the entitled to family pension in equal share. Thus, as per Rules, family pension cannot be denied to second wife.

8. In the wake of aforesaid factual and legal position, this court is of the considered opinion that petitioner is entitled to family pension at least from the date of death of first wife i.e. 04.08.2021. Accordingly, the respondents are directed to release family pension w.e.f. 05.08.2021 to the petitioner. Let the needful be done within three months from today. If the arrears are not released within three months from today, the respondent shall be liable to pay interest 7.5% p.a. from the expiry of said period.

9. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

20.08.2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No