

**CWP-12577-2025****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(110)****CWP-12577-2025****Date of Decision : September 01, 2025****Union of India and others****.. Petitioners****Versus****Central Administrative Tribunal, Chandigarh Bench, Chandigarh
through its Registrar and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI****Present: Dr. Anandeshwar Gautam, Senior Panel Counsel,
for the petitioners.****HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the challenge is to the order dated 15.05.2023 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'Tribunal') by which, the benefit of family pension has been allowed in favour of respondent No.2 by placing reliance upon Rule 12-A of the Central Civil Services (Extraordinary Pension) Rules, 1972 coupled with the judgment of this Court passed in *CWP No.14372 of 2016 titled as Sukhjeet Kaur vs. Union of India and others, decided on 12.01.2023* despite the fact that respondent No.2 had re-married with the brother of her deceased husband.



CWP-12577-2025

2

2. Learned counsel appearing on behalf of the petitioners argues that though, under Rule 12A of Central Civil Services (Extraordinary Pension) Rules, the widow continues to get the family pension even if she has married somebody in the same family to which her deceased husband belonged but the said rule cannot be made applicable upon respondent No.2 as the death of her husband was not attributable to the Government service.

3. Learned counsel for the petitioners submits that fine distinction between Extraordinary Pension Rules and the Common Pension Rules has been missed by the Court while allowing the benefit in favour of respondent No.2.

4. We have heard learned counsel for the petitioners and have gone through the record with his able assistance.

5. It is a conceded fact that under Rule 12-A of the Central Civil Services (Extraordinary Pension) Rules, the re-marriage by the widow is allowed in case, the widow marries the brother of the deceased husband and continues to live a communal life and contributes to support the other dependents of the deceased. The said Rule has been noticed by the Coordinate Bench of this Court in ***Sukhjeet Kaur's case (supra)*** and it has been held that the exception being carved out that the death of the employee concerned should be attributable to the Government service in order to get the benefit of Rule 12-A of Extraordinary Pension Rules, has been declined. The relevant paragraph of the judgment of the Coordinate Bench of this Court in ***Sukhjeet Kaur's case (supra)*** is as under:-

“ *"The view of the Delhi High Court in the above decision that there ought not to be a distinction between a widow of a*



CWP-12577-2025

3

person who had died by reasons attributable to or aggravated by military service and a person who had died just in service, since the problems faced by the widows are identical, undoubtedly applies even in the instant case if we substitute the word 'Government service' for the word 'Military service' in the said judgment.

Rule 12-A of the CCS (Extraordinary Pension) Rules specifically permits widow of an employee who remarries deceased husband's brother and continues to live communal life and contributes to the support of other family dependents of the deceased to get extraordinary pension like Regulation 21 of the Army Pension Regulations, 1961 which was considered by the Delp High Court in Smt. Kashmiro Devi (Supra).

So Rule 12-A of the CCS (Extraordinary Pension) Rules ought to be given the petitioner ignoring the cause of death of her first husband Sh. Mohind Singh and even though his death was not attributable to Government service.

The contention of the counsel for the respondents that laches on the part the petitioner disentitles her to any relief cannot also be countenanced because admittedly when the petitioner had earlier filed O.A. No.60/372/20 before respondent No.4/Tribunal, no such plea was taken by the respondent Therefore, they had waived the said plea and so are barred by application principle of constructive res judicata from raising the said plea in the inst Writ Petition, and they ought not to have been allowed to raise the said p by respondent No.4/Tribunal, and it ought not to have accepted it dismissed on 29.04.2016 in OA No. 060/00361/2016.

Accordingly, the order dt. 29.04.2016 of respondent No.4/Tribunal in OA No. 060/00361/2016 is set aside; the said OA is allowed and respondent Nos. 1 to 3 are directed to restore pension to the petitioner from 29.04.2011 (i.e. 3 years prior to the date of filing of OA No.060/00372/2014 before the Central Administrative Tribunal, Chandigarh) with interest @ 6% from the said date till the date of payment. The respondents Nos. 1 to 3 shall make payment of arrears to petitioner under Rule 12-A of the CCS (Extraordinary Pension) Rules within three months from the date of receipt of the certified copy of this orde and shall continue to pay the same to her during her lifetime."

6. A bare perusal of the above reproduction would show that the Coordinate Bench held that the benefit of Rule 12-A of the Central Civil Services (Extraordinary Pension) Rules, 1972 should be given to the widow even if the death of her husband was not attributable to the Government

**CWP-12577-2025****4**

service, which judgment has attained finality and the benefit of family pension has been given to the petitioner therein.

7. Once, the benefit which has been allowed by the Central Administrative Tribunal has already been given to a similarly situated employee, filing a petition challenging the grant of the same benefit to respondent No.2 is discriminatory.

8. Keeping in view the totality of the circumstances, as the judgment passed by the Tribunal is based upon the judgment of this Court in *Sukhjeet Kaur's case (supra)*, taking a contrary view on the asking of the petitioners is not made out especially when, the impugned order has not been proved to be perverse either on facts or on law.

9. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

10. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

September 01, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No