



CWP-11943-2016 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-11943-2016 (O&M)
Date of Decision :28.02.2025

Mukhtiar Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pawan Kumar Goklaney, Advocate with
Mr. Ashish Goklaney, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

None for respondent No.6.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-13261-CWP-2023

1. Present application has been filed for fixing some actual date of hearing in the main petition.
2. Notice of the application to the respondents.
3. Ms. Akshita Chauhan, DAG, Punjab accepts notice on behalf of respondent-State and raises no objection for the grant of prayer as mentioned in the present application.
4. Keeping in view the averments made in the application which are duly supported by an affidavit, application is allowed. Case is taken up for hearing today itself.

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5. In the present petition, the grievance being raised by the petitioner, who was the first wife of the deceased employee is that vide



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order dated 25.04.2016 (Annexure P/11), 50% family pension has been divided between the petitioner and respondent No.6, who was the 2nd wife after the death of deceased employee namely, Mani Ram @ Kesar Singh s/o Gajjan Singh on 04.05.2005.

6. Learned counsel for the petitioner submits that the petitioner is the first wife of deceased employee but as there was a matrimonial dispute between the petitioner and her husband i.e deceased employee, the deceased employee started living with respondent No.6 and nominated respondent No.6 to be his wife though, there was no dissolution of marriage of the petitioner with the deceased employee at any given point of time up to the date of death i.e. 04.05.2005 of the husband-deceased employee.

7. Learned counsel for the petitioner further submits that respondent No.4 passed an order dated 25.04.2016 (Annexure P-11) so as to bifurcate the pensionary benefits equally i.e. 50-50% between the petitioner and respondent No.6, which is arbitrary and illegal as the pensionary benefits can only be given to the legal heirs of the deceased-employee and respondent No.6 cannot claim any relationship with the deceased employee as the petitioner was alive being the legally wedded wife of the deceased employee up to the date of the death of the employee concerned.

8. Learned counsel for the petitioner submits that though, there was no legal marriage between deceased employee and respondent No.6 but children born out of said relationship have already been considered as a legitimate children for the grant of pensionary benefits and the said division of 50% pension, gratuity and leave encashment between the children born out of the relationship between deceased employee and respondent No.6



have already been given the benefit of 50% pensionary benefits and the only question which remains to be decided is whether, the petitioner is entitled for full family pension or the same is also to be bifurcated between petitioner and respondent No.6.

9. Learned counsel for respondents submits that respondent No.6 also claiming herself to be the wife of deceased employee and the confusion arose because the deceased employee had nominated respondent No.6 as his legally wedded wife to be paid the pensionary benefits after his death and therefore, the benefit of family pension also were being equally divided between respondent No.6 and the petitioner.

10. I have heard learned counsel for the parties and have gone through the record with their able assistance.

11. Once, keeping in view the facts which have been brought on record, it is clear that the petitioner was the legally wedded wife of the deceased employee and she was alive, there can be no second marriage of the deceased employee with the respondent No.6. Even if, the deceased employee was living with respondent No.6 and children were born out of their relationship, only the children will be entitled for the pensionary benefits and family pension only upto certain age qua dependent son but dependent daughter can get the same till she starts earning.

12. In the present case, the claim of the petitioner is only for family pension, which is admissible to the spouse of the deceased employee. In the present case, the spouse can only be the petitioner and not the respondent No.6 as there was no valid marriage between respondent No.6 and deceased employee. Nothing has come on record that children born out of the



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relationship between deceased employee and respondent No.6 are still dependent to get family pension. Hence, bifurcating the family pension between the petitioner and respondent No.6 is not in accordance with the settled principle of law. Keeping in view the facts and circumstance of the present case, the respondents are directed to grant full family pension in respect of the deceased employee to the petitioner in case no child born out of the relationship between the deceased employee and respondent No.6 is eligible to get the family pension as per rules governing the said aspect and the same be released to the petitioner along with arrears if any, within a period of 08 weeks from the date of receipt of copy of this order.

13. No other arguments has been raised.
14. Present petition is allowed in above terms.

February 28, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No