204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

CWP-17342-2015
Date of Decision: 10.09.2025

Gurmit Kaur

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Deepak Goyal, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

****

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 05.09.2011 (Annexure P-4) whereby she was denied family pension on the ground that she is stepmother of deceased employee.

2. The petitioner is claiming family pension on the ground that she is stepmother of deceased employee. As per petitioner, the biological mother of the deceased soldier died while he was 14 years old. It was petitioner who had brought up the deceased soldier and his siblings. The deceased employee at the time of death of his biological mother was 14 years old, his sister was 09 years old and brother was 05 years old. There is no specific bar in granting family pension to stepmother. In support of his contention, he relies upon judgment of Hon’ble Delhi High Court in ***Rajeshwari Devi Vs. Union of India and Others, 1998 SCC OnLine Del 782*** wherein family pension has been extended to stepmother.

3. Learned counsel representing the petitioner submits that family pension is governed by Chapter 6 of Punjab Civil Service Rules (Volume II). Expression ‘Family’ has been defined under Rule 6.17(3) of the Rules. In the definition of family, parents are included. There is no specific exclusion of stepmother. The petitioner did not solemnize marriage either after death of the deceased employee or his joining service. The petitioner solemnized marriage with deceased employee’s father at the time when employee was minor. She cannot be excluded from the definition of parents. In support of her contention, she has placed on record Ration Card wherein name of petitioner as well as deceased employee is underscored.

4. *Per contra*, learned State counsel submits that definition of family under Family Pension Scheme is exhaustive. At the initial stage, even parents were not included in the definition of family. In 1998, amendment was made and parents were included in the definition of family. Legally adopted children are included in the definition of family. Divorced/widow daughter is included in the definition of family. Expression ‘Parents’ does not include stepmother. The petitioner is stepmother of deceased employee, thus, she is not entitled to family pension. There is no ambiguity in the Rules, thus, there should be literal interpretation of the Rules. This Court in ‘***Smt. Amna Devi Versus Commissioner, Workmen’s Compensation Act, Hisar and Another’, 2015 (17) RCR (Civil) 193*** while dealing with compensation to stepmother under Workmen’s Compensation Act, 1923, has held that stepmother is not entitled to compensation. She does not fall within the definition of Expression ‘Parents’.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The dispute revolves around reading of expression 'Family' as defined under Rule 6.17(3) of Family Pension Scheme as contemplated under Chapter 6 of Punjab Civil Service Rules (Volume II). For the ready reference, Rule 6.17 is reproduced as below:

> *"6.17. The provisions of this rule shall apply:*
>
> *(a) to a regular employee of Punjab Government in a pensionable establishment on or after the 1st July, 1964; and*
>
> *(b) to a Punjab Government employee who was in service on the 30th June, 1964 and came to be governed by the provisions of Family Pension Scheme, 1964, for Punjab Government employees.*
>
> ***Note**.- In the case of a Government employee who retired from service or died at any time before the publication of this rule, the provisions of Family Pension Scheme, 1964 as in force on the date that Government employee retired or died shall apply.*
>
> *(1) The rate of family pension in respect of a Government employee who dies after retirement shall be as under:-*
>
> *(a) **forty per cent** of the pay subject to a minimum of Nine Thousand Rupees, with effect from 1st January, 2016 if the pay of the deceased on the date of his retirement does not exceed Thirty Thousand Rupees, with effect from 1st January, 2016.*
>
> *(b) **thirty per cent** of the pay subject to a minimum of Twelve Thousad Rupees, with effect from 1st January, 2016, if the pay of the deceased on the date of retirement exceeds Thirty Thousand Rupees, with effect from 1st January, 2016.*
>
> ***Note.-** The above rates are effective from the 1st day of January, 2006.*
>
> ***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.

Note 2.- *The amount of family pension shall be fixed at monthly rates and be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee:*

Provided that in no case a family pension in excess of the maximum determined under this rule shall be allowed.

(2) The Scheme will be administered as below:-

(i) The family pension will be admissible in case of death while in service or after retirement if at the time of death the retired Government employee was in receipt of a compensation, invalid, retiring or superannuation pension. In case of death while in service, the Government employee should have completed a minimum period of one year of continuous service, without break. The family pension will not be admissible in cases of death after retirement, if the retired employee at the time of death was in receipt of gratuity only:

Provided that the condition of completing a minimum period of one year of continuous service will not be applicable in the case of Government employee who has been medically examined and declared fit for entry into Government service.

(ii) The term "one year continuous service" used in clause (i) is inclusive of permanent and temporary service in a pensionable establishment and any period of leave including extraordinary leave but does not include Boy

Service and suspension period unless that is regularised by the competent authority.

(iii) In the cases of persons who are transferred to Punjab State from the Central Government or other State Governments and in whose case it has been agreed to count their previous service for pension the Family Pension Scheme would be applicable in the event of their death/retirement without putting in one year continuous service under the State Government, if their total service at the time of death (inclusive of service rendered under the previous Government) exceeds one year.

(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) a 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.

***Note 1**.– <u>(c) and (d) will include children adopted legally before retirement.</u>*

***Note 2**.– Marriage after retirement shall be recognised for purposes of this Scheme.*

(4) The pension will be admissible–

(i) (a) in the case of widow or widower up to the date of death or remarriage whichever is earlier;

(b) in the case of a son until he attains the age of twenty-five years or till he starts earning his livelihood, whichever is earlier; and

(c) to a daughter upto the age of twenty-five years irrespective of her marriage. However, an unmarried daughter shall be entitled to family pension irrespective of her age. But, family pension shall not be admissible to a daughter, if she starts earning her livelihood:

Provided that if the son or daughter of a Government employee is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after becoming ineligible for family pension under sub-clauses (b) and (c), the family pension shall be payable to such son or daughter for life subject, to the following conditions, namely:–

(i) if such son or daughter is one among two or more children of the Government employee, the family pension shall be initially payable to the children in the order set out in the sub-rule (3) until the last child becomes ineligible for family pension under sub-clauses (b) and (c) and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled and shall be payable to him or her as the case may be, for life;

(ii) if there are more than one such son or daughter suffering from disorder or disability of mind or they are physically crippled or disabled, the family pension shall be paid in the following order, namely:–

(a) firstly to the son, and if there are more than one son, the younger of them will get the family pension only after the life time of the elder;

(b) secondly, to the daughter, and if there are more than one daughter, the younger of them will get the family pension only after the life time of the elder;

(iii) the family pension shall be paid to such son or

daughter through the guardian as if he or she were a minor;

iv) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such a nature as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Civil Surgeon setting out as far as possible, the exact mental or physical condition of the child;

(v) the person receiving the family pension as guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of a Civil Surgeon to the effect that he or she continued to suffer disorder or disability of mind or continues to be physically crippled or disabled.

Explanations–(a) The disability which manifests itself before or after the retirement or death of the Government employee shall be taken into account for the purpose of grant of family pension under this rule.

(b) Omitted.

(c) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his/her livelihood.

(d) In such cases it shall be the duty of the guardian to furnish a certificate to the Treasury or Bank , as the case may be, every month that (i) he or she has not started earning his/her livelihood; (ii) Omitted.

Explanation (2).–A son or a daughter shall be deemed to be earning his/her livelihood if his/her monthly income is equal to the prescribed minimum family pension of Rs. 3,500 plus dearness relief thereon Rs.9,000+DA per mensum or more, w.e.f. 1st January, 2016. Similarly, parents whose total monthly income from all sources is equal to or more than the prescribed minimum pension of Rs. 3,500 plus dearness relief thereon Rs.9,000+DA per mensum or more, w.e.f. 1st January, 2016, shall not be *considered to be dependent upon the deceased Government employee and no family pension shall be admissible to them.*

***Note 1**.–When a Government employee is survived by more than one widow, the pension will be paid to them in equal shares. On the death of a widow, her share of the pension will become payable to her eligible minor child, if at the time of her death, a widow leaves no eligible minor child, the payment of her share of the pension will cease.*

***Note 2**.–Where a Government employee is survived by a widow but has left behind an eligible minor child from another wife, the eligible minor child will be paid the share of pension which the mother would have received if she had been alive at the time of the death of the Government employee.*

***Note 3**.–Except as provided in Note 1, pension awarded under this scheme will not be payable to more than one member of the family of a Government employee at the same time. It will first be admissible to the widow or widower and thereafter to the eligible minor children.*

***Note 4**.–In the event of remarriage or death of the widow or widower, the pension will be granted to the minor children including the posthumous child through their natural guardian, if any, otherwise through their de facto guardian on production of indemnity bond in Form "A". In disputed cases, however, payment will be made through a legal guardian (i.e. guardian, appointed by a court of law)."*

7. As per aforesaid Rule, legally adopted children are included in the definition of family. As per Note 1 of explanation to Rule 6.17, if a Government Employee is survived by more than one widow, the pension is paid in equal shares to all of them. Daughters up to age of 25 years irrespective of their marriage are covered. Unmarried daughters irrespective of their age are covered. Judicially separated spouse is

covered.

8. From the perusal of definition of ‘Family’, it is evident that legislature as per its wisdom has included parents and expression ‘Parents’ in the common parlance does not include stepfather or stepmother. Expression ‘Parents’ means biological father/mother. This Court cannot add or subtract any word in the Rules. The language of the Rules is clear and it is settled proposition of law that if language of the Rules is clear, Courts are not supposed to look into intention or take external aid to interpret the provision.

9. The respondent by way of instructions has included relatives which are not included as per Rules. Divorced/widow daughter has been included in the definition of family. As per Rules, stepmother is not entitled to family pension, however, it seems to be unjust and unfair if she is denied family pension despite the fact that she had brought up the child. She should be considered for family pension. In view of instructions issued by State Government, this Court finds it appropriate to request to Chief Secretary to look into the matter and do the needful.

10. ***Disposed of***.

(JAGMOHAN BANSAL)
JUDGE

10.09.2025
Prince Chawla

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