120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4194-2017 (O&M)
Reserved on 30.10.2025
Pronounced on : 22.12.2025
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Whether only operative part of the judgment is pronounced? *No*

Whether full judgment is pronounced? *Yes*

Kalawati ….Appellant

Versus

State of Haryana & ors. ….Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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Present:- Mr. Ashutosh Kaushik, Advocate
for the appellant.
(Through V.C.).

Mr. Saurabh Girdhar, Asstt. A.G., Haryana.

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PANKAJ JAIN, J.

1 Plaintiff is in second appeal. For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the appellant as plaintiff and respondents as defendants.

2 Plaintiff filed suit seeking declaration to the effect that she is entitled to get the financial assistance equivalent to salary last drawn till the date of superannuation of her deceased son Shri Hari Har Mohan and sought mandate to the defendants to release the benefits in terms of the Haryana

Compassionate Assistance to the dependents of the deceased Government Employees Rules, 2006 (for short, 'the 2006 Rules') along with interest.

3 As per the case of the plaintiff, her son namely Hari Har Mohan was working as Sanskrit teacher with the respondents. He died in harness on 11.10.2011. At the time of death, he was posted as Sanskrit teacher with Government Middle School, Village Sanghore, Tehsil Babain, District Kurukshetra and was getting salary of Rs.38,570/-. Deceased was unmarried. She being mother is the only legal heir of the deceased. She was fully dependent upon the income of her deceased son. In terms of the 2006 Rules the plaintiff is entitled for financial assistance. Succession certificate was granted in favour of the plaintiff by the Court of Additional Civil Judge (Senior Division) Kurukshetra vide order dated 27.08.2013. The same already stands submitted to the defendants. However, the defendants have not released assistance to the plaintiff till date.

4 Suit was contested by the defendants claiming that the plaintiff is guilty of having suppressed material facts. She is wife of Sat Narain Shastri, a Government Employee who is getting pension @ Rs.15,475/- per month. She has been nominated to receive the family pension in case of death of Sat Narain Shastri. Objective of the 2006 Rules is to assist the family of a deceased employee to tide over an emergency situation arising out of loss of bread earner. Plaintiff is thus not entitled to any benefit as her husband is drawing pension of Rs.15,475/- per month. The plaintiff cannot be said to be dependent upon her deceased son.

5 Courts below held that the plaintiff has not approached the Court with the clean hands, as she concealed the fact of her husband receiving pension and dismissed the suit filed by the plaintiff.

6 The Lower Appellate Court while rejecting the claim of the plaintiff observed as under :-

> *"16. The question which arises in the present case is as to whether the plaintiff being mother of deceased Hari Har Mohan who was unmarried, can be said to be wholly dependent on him when he was alive so as to be legally entitled to the benefit of financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 till the date of his superannuation and thereafter, to family pension as claimed.*
>
> *17. It may be observed that PW1 Kalawati has testified in her affidavit Ex.PW1/A that she was fully dependent upon the income of her son Hari Har Mohan and is entitled to financial assistance and family pension as prayed for. However, in the plaint and her affidavit tendered in evidence as Ex.PW1/A the plaintiff Kalawati did not mention as to her husband being retired government employee and pensioner of Haryana Government and also as to her entitlement to grant of family pension on his death and the plaintiff thereby suppressed true and material facts from the Court. In view of the observations made by the Hon'ble Supreme Court in Mahanagar Telephone Nigam Limited Vs. State of Maharashtra and others 2014 (1) CCC 111 Ms. Gitanjali Goel, the then learned Civil Judge (Junior Division), Kurukshetra has rightly held that suppression of material facts by the plaintiff from the Court dis-entitles her to the relief of declaration and permanent and mandatory injunctions as prayed for. Further the plaintiff being dependent of her husband entitled to draw family pension in case of his death as mentioned in above referred pension payment order could not be dependent on her son. Even though PW1 Kalawati has stated that she used to reside with her son Hari Har Mohan as she had strained relations with her husband and*

the plaintiff has also examined her brother-in-law Pawan Kumar as PW2 and Birbal as PW3 who have deposed in similar terms in this regard but no such plea was taken by the plaintiff in her plaint and no such averment was even made by the plaintiff in her affidavit. This fact by itself gives rise to the inference of the case of the plaintiff in this regard being result of afterthought, deliberation, consultation and manipulation. It is well settled that evidence beyond pleading cannot be looked into. Even otherwise the oral evidence produced by the plaintiff in this regard is contradicted by her own admission of PW1 Kalawati in her cross-examination that her son was teaching in the School at Sanghore and used to reside at Babain and she is residing at Kirmach. Further the oral evidence produced by the plaintiff is also not supported by any documentary evidence. The plaintiff has not produced her ration card, Aadhaar card or voter card to corroborate her testimony and to prove that she was residing with her son Hari Har Mohan at Babain. The plaintiff has also not produced copy of any complaint made or any civil or criminal case filed against her husband in any Court to prove her strained relationship with her husband. In these above discussed facts and circumstances of the case uncorroborated oral evidence produced by the plaintiff cannot be accorded any credence and is liable to be discarded.

18. No doubt, vide judgment dated 27.08.2013 passed by the Court of Ms. Nandita Kaushik, the then learned Additional Civil Judge (Senior Division), Kurukshetra, the plaintiff was held to be the only legal heir of Hari Har Mohan and to be entitled to grant of financial assistance but the present defendants were not impleaded as party to the above said petition and therefore, the above said judgment as to entitlement of the plaintiff to grant of financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 is not binding on the defendants.

19. In these facts and circumstances of the case the plaintiff cannot be said to be wholly dependent on her son deceased Hari Har Mohan.

Consequently the plaintiff is not entitled to the benefit of financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006."

7 Learned counsel for the plaintiff has assailed the findings recorded by the Courts below. It has been contended that the 2006 Rules require the eligible family member of the deceased to make application in Form A of the 2006 Rules. As per the rules, the eligibility to receive financial assistance is to be governed by the provisions of Pension/Family Pension Scheme, 1964. Family Pension Scheme, 1964 (for short, 'the 1964 Scheme') defines 'family'. In case of an unmarried employee 'family' includes 'parents'. There is a criterion prescribed governing eligibility of parents for receiving pension. Merely for the reason that husband of the plaintiff, i.e. father of the deceased son is receiving pension, the plaintiff cannot be held to be ineligible to receive financial assistance under the 2006 Rules. He relies upon ratio of law laid down by Supreme Court in ***Kharak Singh Kang & anr. Vs. State of Punjab through the Secretary (1990) 97 PLR 617*** wherein this Court held that for the purpose of grant of family pension under the 1964 Scheme, father and mother stand included in the definition of family.

8 *Per contra* counsel for the defendants-State has supported the judgment passed by the Courts below ascertaining that the plaintiff made active concealment from the Court. She opted not to disclose the factum of her husband being a pensioner under the State. It has been proved that husband of the plaintiff is getting pension of Rs.15,475/- per month and thus the plaintiff could not be entitled for the financial assistance under the 2006 Rules.

9 I have heard learned counsel for the parties and have gone through the records of the case.

10 It stands proved on record that the plaintiff is mother of deceased-Hari Har Mohan who died a bachelor. It also stands proved that father of the deceased i.e. husband of the plaintiff is a retiree and is receiving pension amounting to Rs.15,475/- per month.

11 In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, State of Haryana promulgated the 2006 Rules, with an objective to grant financial assistance on compassionate grounds to members of the family of a deceased employee who dies while in service. Rules 2, 3 and 4 of the 2006 Rules read as under :-

> *"2. The object of the rules is to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance.*
>
> *3. The eligibility to receive financial assistance under these rules shall be as per the provision in the pension/family pension scheme, 1964.*
>
> *4. An eligible family member of the deceased/missing Government employee shall make an application in Form A for compassionate financial assistance."*

12 In terms of the aforesaid Rules, a family member of the deceased is eligible to receive family pension as per the provisions of the 1964 Scheme is eligible to get financial assistance. The 1964 Scheme provides as under :-

> *"4.This scheme is administered as below:-*

(i) The family pension is admissible in case of death while in service or after retirement on or after the 1st July, 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. The family pension will not be admissible in case of death after retirement if the retired employee at the time of death was in receipt of gratuity only. In case of death while in service a government employee should have completed a minimum period of one year of continuous service without break.

Note 1. *The term one year continuous service used in para-4 (i) above is inclusive of permanent/ temporary service in a pensionable establishment but does not include periods of extraordinary leaves, boy service and suspension period unless that is regularized by the competent authority or before completion of one year continuous service provided the deceased government employee concerned immediately prior to his recruitment to the service or post was examined by the appropriate Medical Authority and declared fit by that authority for Government service.*

***Note 2**.- In the cases of persons who were in service in composite state of Punjab prior to 1" November, 1966 and came over to Haryana State on or after 1 November, 1966 or those who have been recruited by the Haryana Government on or after 1" November, 1966, or who are transferred to Haryana State from the Central Government or other State Governments and to those cases it had 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.*

> *[(ii) "Family" for the purposes of this scheme includes the following relatives of the officer :-*
> *(a) wife, in the case of a male officer;*
> *(b) husband, in the case of a female officer;*

(c) minor sons;

(d) unmarried minor daughters;

(e) widowed/legally divorced daughters; and

(f) the parents of an unmarried officer.

Note 1.- *Clauses (c) and (d) include children adopted legally before retirement.*

Note 2*. A judicially separated wife/husband does not loose her/his legal status of wife/husband of the Government employee and is thus eligible for the benefit of the Family Pension Scheme, 1964.*

((iii) The pension is admissible-

(a) in the case of widow/widower upto the date of death or remarriage, whichever is earlier,

(b) in the case of son/unmarried daughter until he/she attains the age of twenty five years;

(c) in the case of parents who were wholly dependent on the Government employee when he/she was alive, upto the date of death provided the deceased employee had left behind neither a widow nor a child;

(d) in the case of children in the order of their birth and younger of them will not eligible for family pension unless the elder next above him/her has become ineligible for grant of family pension:

(e) in the case of divorced/widowed daughter till they are alive:

Provided that an unmarried daughter including widowed/divorced daughter will become ineligible for pension from the date of her marriage/remarriage:

Provided further that the son/unmarried daughter including widowed/ divorced daughter shall become ineligible for pension if he or she starts earning livelihood.

The income criteria in respect of parents and widowed/divorced daughter shall be that their earning is not more than Rs. 2550/- per month. Provided also that parents and widowed/divorced daughter *shall produce an annual certificate to the effect that pension shall be 30% of basic pay of the deceased employee, subject to a minimum of Rs. 1913/- per month.*

Notes.-

(i) Where an officer 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.

(ii) Where an officer 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 officer.

(iii) Where the family pension is payable to twin children, it shall be paid to such children in equal shares and when one such child ceases to be eligible his/her share shall revert to the other child and when both of them cease to be eligible the family pension shall be payable to the next eligible single child/twin children.]

> *[(f) In the case of unmarried daughter beyond twenty five years of age at par with widowed/divorced daughters subject to other conditions being fulfilled. Grant of family pension to unmarried/widowed/divorced daughter shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above her has become ineligible for grant of family pension. Further pension to unmarried/widowed/divorced daughter above the age of twenty five years shall be payable only after the other eligible children below the age of twenty five years have ceased to be eligible to receive family pension and that there is no disabled child to receive the family pension.*

Provide that unmarried daughter including widowed/divorced daughter will become ineligible for pension from the date of her marriage/remarriage or when she starts earning livelihood.

Provided further that the income criteria for grant of family pension to unmarried daughter shall be the same as in respect of parents and widowed/divorced daughter as per notification dated 21st July, 2006.]"

13 The issue that arises before this Court is:-

"Whether plaintiff i.e. mother of an employee who died unmarried is eligible to receive financial benefits under 2006 Rules ?"

14 In terms of Rule 3 of 2006 Rules the eligibility of the plaintiff is to be governed by the 1964 Scheme. It being not denied that the employee died unmarried his parents are entitled to receive family pension and are included within the definition of 'family' as promulgated under the 1964 Scheme. In terms of Clause 4(iii) of the 1964 Scheme, family pension is admissible in case of parents wholly dependent on the Government employee when he was alive.

15 Courts below have non-suited the plaintiff holding that she being the nominee to receive family pension after death of her husband, she can not be held to be dependent on her deceased son. In the considered opinion of this Court, the Courts below erred in rejecting the claim of the plaintiff. It stands proved that husband of the plaintiff is earning pension being a retired Government employee. Merely for the reason that she failed to disclose the fact *qua* her husband earning pension would not disentitle her from maintaining her claim. Admittedly she has no independent source of income.

16 The issue regarding claim of a mother to get family pension under the 1964 Scheme came up for consideration before Division Bench of this Court in ***Kartar Kaur & anr. Vs. Union of India & ors., 2011 SCC***

OnLine P&H 5. Division Bench of this Court while dealing with the situation wherein her husband was getting pension, observed as under :-

> *"The contention raised by the counsel for petitioners merit where he argued that such a condition imposed for entitlement to ordinary family pension to the dependents of the officers is discriminatory. The husband of the petitioner is an Ex-serviceman who is getting a meager amount of pension as a matter of right. His wife can not be denied the benefit of ordinary family pension, taking into consideration the death of her son by fixing a limit of pension received by her husband. The petitioner/mother has no other source of income, and her claim for pension can not be rejected on the ground that pension of her husband exceeds the mean limit fixed by the Government.*
>
> *This Court in the case of Ishwanti Devi v. Union of India (supra) in a similar situation has allowed the benefit to the mother, which is fully applicable to the facts of the present case."*

17 In view of above, this Court finds that the case of the plaintiff is squarely covered by the ratio of law laid down by Division Bench of this Court in ***Kartar Kaur's case supra***. Merely for the reason she has been nominated by her husband to receive family pension in the event of his death would not disentitle her from claiming financial benefits under 2006 Rules *qua* death of her unmarried son.

18 In view of above, this Court finds that the judgment and decree passed by both the Courts below are unsustainable and the same deserve to be set aside. Suit filed by the plaintiff deserves to be allowed.

19 In view of above, this Regular Second Appeal is ***allowed*** in the following terms :-

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(i) The impugned judgment and decree passed by the Courts below are hereby ordered to be set aside.

(ii) Findings recorded by the Courts below are reversed. Suit filed by the plaintiff is ordered to be decreed.

(iii) Plaintiff-Kalawati is entitled to receive financial benefits admissible under the 2006 Rules on account of death of her unmarried son Hari Har Mohan who died in harness on 11.10.2011. She is entitled to get arrears under the 2006 Rules along with interest @6% per annum from the date of its accrual till the date of actual realization.

(iv) In case the arrears are not paid within a period of three months from the passing of the instant judgment and decree, the defendants are liable to pay interest @9% per annum on the unpaid financial assistance from the date of its accrual till the date of actual realization.

20 Decree be drawn accordingly.

21 Pending miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.12.2025
Pooja Sharma-I

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