



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

213

CWP-23462-2023 (O&M)
Date of decision: 07.02.2025

Surjit Kaur

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amrik Singh, Advocate for the petitioner

Mr. Amarpreet Singh Bains, AAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. The prayer made in the present petition is for directing the respondents to grant full family pension with effect from the date, when the minor son from the first wife of the husband of the petitioner had attained the majority i.e. on 26.10.2015.

2. Reliance is placed on the judgment passed by this Court in **Harpal Kaur vs. State of Punjab and Others**, CWP-8115-2010, decided on 03.07.2013, Annexure P-8, by relying on the judgment in **Ram Dulari vs. State of Haryana and Others**, CWP-3359-2008, decided on 03.07.2009, which covers the case of the petitioner on all fours, which learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, relevant para of **Ram Dulari** (supra) read thus:

“ 10. In the present case, family pension has been granted and apportioned in accordance with Note (ii) of sub-clause (iii) of clause 4 of the 'Pension Scheme' because at the time of death of Shri Mehar Singh, there were minor children who were born out of his wedlock with Smt. Sona Devi apart



from the petitioner who was rendered widow. Note (ii) appended to sub-clause (iii) of Clause 4 of the 'Pension Scheme' is squarely attracted to the facts of the instant case. It postulates a widow surviving the death of her husband and minor child from another wife. It further clarifies that the minor child would become entitled to that share of pension which was payable to her mother had she been alive which obviously according to Note (i) is 50%. Accordingly, 50% share of the family pension was apportioned to the minor children whereas the petitioner continued to get the other 50%. The youngest of the minor children, Shri Braham Singh, attained majority on 13.5.2001 and consequently payment of 50% family pension to them was stopped. The claim of the petitioner is meritorious because had there been no minor child then at the first place she would have got 100% family pension. The same stage has now been set in May 2001 when the minor children have stopped getting their 50% share of the family pension on account of the fact that every one of them had attained majority. In any case we would interpret the provision of 'Pension Scheme' liberally as it is a piece of social welfare legislation. The State cannot appropriate that amount which would have come to the petitioner. Therefore, the petitioner, who is widow, has rightly claimed that State cannot appropriate 50% of the family pension, which she is entitled to get during her life time. Accordingly, we are of the view that the petitioner would be entitled to the payment of remaining 50% family pension from the date the youngest of the minor children have attained majority and stopped availing the same i.e. 13.5.2001.

11. The argument of the respondents is wholly misconceived when they argued that according to Note (i) of sub-clause (iii) of clause 4 of the 'Pension Scheme' once the minor children have stopped getting their share on account of attaining majority then the 50% share would cease. A perusal of Note (i) would show that the aforesaid provision is applicable only in a case where an employee is survived by more than one widow. In the present case there was only one widow on the date of death of Shri Mehar Singh. It has come on record that Shri Mehar Singh died on 27.8.1980 and his earlier wife Smt. Sona Devi had predeceased him in the year 1976 leaving behind three children, namely, Raj Singh, Manju Rani and Braham Singh, who were born on 5.1.1972, 20.3.1974 and 13.5.1974 respectively. Then he married the petitioner. It is further appropriate to mention that the petitioner also had a minor child, namely, Megh Raj, who was born on 8.12.1980. Therefore, Note (i) would have no application in the absence of at least two widows. The present is a case of one widow who had a minor child of her own and three minor children of her husband, born out of his wedlock with Smt. Sona Devi, who had predeceased him. The



respondents have totally misdirected themselves in applying Note (i) to the case of the petitioner whereas the matter is covered by Note (ii) of sub-clause (iii) of clause 4 of the Pension Scheme', which does not contemplate ceasing of pension. Therefore, there is no substance in the argument of the respondents and the same is rejected.

12. For the reasons aforementioned, this petition succeeds. Order dated 17.7.2007 (P-7) passed by the Director General of Police-respondent No. 2 is set aside. The respondents are directed to release 50% share of the family pension to the petitioner, which was being paid to the minor children of deceased wife of Shri Mehar Singh, namely, Smt. Sona Devi, to the petitioner. It is clarified that the petitioner would now be entitled to 100% pension. The petitioner shall also be entitled to all the arrears with effect from May 2001 till date alongwith interest at the rate of nine percent per annum. The needful shall be done within a period of two months from the date of receipt of a certified copy of this order.

13. The writ petition stands disposed of in the above terms.”

3. The petition is disposed of in terms of **Harpal Kaur and Ram Dulari** (supra).

(AMAN CHAUDHARY)
JUDGE

07.02.2025
M.Kamra

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