



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

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**CWP-27922-2023 (O&M)
Date of decision: 19.08.2025**

Jaswinder Kaur

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Maanipur, Advocate
and Ms. Harpreet Kaur, Advocate
for the petitioner.

Ms. Arundhati Kulshreshtha, AAG, Punjab
for respondents No.1 and 4.

Mr. Sanjeev Soni, Advocate
with Mr. Sarthak Soni, Advocate
for respondents No.2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned order dated 13.10.2023 (Annexure P-10), passed by respondent No.3, and letter/order dated 27.04.2022 (Annexure P-12) issued by Superintendent of respondent No.1 and opinion dated 06.10.2023 (Annexure P-13) of the Superintendent Law of respondent No.1, being contrary to the law laid by the Division Bench of this Court in Smt. Balwant Kaur and another vs State of Punjab and another, passed in CWP No.7741 of 2007, decided on 23.04.2008 (Annexure P-4). Further a writ of mandamus has been



sought, directing respondent No.1 to issue instructions for clarifying the Rule 6.17 of the Punjab Civil Services Rules Volume II on the similar footing, which was in Rule 8.35(1) to grant family pension to widow on remarriage with the real younger brother of the deceased employee in terms of the direction issued by this Court in Balwant Kaur's case (supra).

2. Learned counsel for the petitioner submits that the deceased husband of the petitioner was appointed as Auction Recorder in the Market Committee, Noormahal, District Jalandhar, on 14.12.1982 and died in service on 19.11.1992 while working as Mandi Supervisor-cum-Fee Collector. He was survived by the petitioner and a minor daughter, Gurpreet Kaur and no family pension was initially granted to the petitioner under the applicable Family Pension Rules. Subsequently, the petitioner remarried her deceased husband's real younger brother, namely, Lakhwinder Singh, who has also passed away on 22.06.1998. The petitioner was not granted family pension. Further even her minor daughter was not granted family pension in the absence of a guardian. As such, she filed a petition under the Guardians and Wards Act, bearing GA No.22 of 1998, which was decided on 21.04.1999, appointing the minor's paternal grandmother, Smt. Harbans Kaur, her guardian. Thereafter, family pension was released in favour of Gurpreet Kaur on 29.02.2000 (Annexure P-1). Thereafter, upon Gurpreet Kaur attaining the age of 25, the family pension was discontinued. Despite becoming a widow for the second time, the petitioner was not extended



the benefit of family pension. Being unaware of her rights and the legal position, the petitioner issued a legal notice on 27.10.2016 (Annexure P-2). She later approached this Court by filing CWP No.25707 of 2016, titled *Jaswinder Kaur vs. Punjab Mandi Board and others*, which was disposed of on 09.08.2023 (Annexure P-9), directing the respondents to decide the legal notice by passing a speaking order. Later on, the impugned order was passed on 13.10.2023 (Annexure P-10), without considering the claim of the petitioner in terms of Rule 8.35 (b) of the Punjab Civil Services Rules and further the Division bench of this Court in *Balwant Kaur's case (supra)* has already dealt with the issue and has categorically held that widow is entitled to family pension on account of her remarriage with the brother of her deceased husband. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in *Bhagwan Dass and another vs Punjab State Electricity Board, 2008(1) SCT 623* and submits that it was obligatory upon the official respondents to have granted the benefit of family pension to the petitioner as the petitioner being a rustic lady was not well versed with the pension rules.

3. Learned State counsel, on the other hand, has filed an affidavit of Manjeet Kaur, Deputy Secretary, Department of Agriculture and Farmer's Welfare on behalf of respondents No.1 and 4, today in the Court, which is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.



4. Learned counsel for respondents No.2 and 3 submits that the claim made by the petitioner at belated stage cannot be considered firstly, the petitioner has abandoned her minor daughter and she has not contributed to the support of the dependent minor daughter. He further submits that the minor daughter of the petitioner has filed a petition under Sections 7, 8 and 25 of the Guardians & Wards Act, for the appointment of a guardian for minor daughter Gurpreet Kaur on the ground that the petitioner has remarried and 02 child were born out of this wedlock and the petitioner had no love and affection towards her minor daughter Gurpreet Kaur. The said petition was allowed and Smt. Harbans Kaur, mother-in-law of the petitioner was appointed as guardian of the minor daughter (Gurpreet Kaur), vide judgment dated 21.04.1999 passed by learned Guardian Judge, Phillaur. All the retiral dues along with family pension were, thereafter, sanctioned and released in favour of the minor daughter Gurpreet Kaur on 29.02.2000 and she continued to receive the family pension in terms of relevant rule and her family pension was discontinued only on her attaining the age of 25 years. Moreover, the petitioner kept sitting over her rights and admittedly, she submitted a legal notice only on 27.10.2016, i.e. after an inordinate delay of 05 years and the case of the petitioner was duly considered in terms of the applicable rules and thereafter, rejected vide impugned order dated 13.10.2023 (Annexure P-10).

5. In rebuttal, learned counsel for the petitioner submits that the petitioner continued to reside in the same house and the



guardianship petition was filed only to facilitate disbursal of family pension. It is denied that the petitioner ever abandoned her daughter Gurpreet Kaur.

6. Having heard learned counsel for the parties and after perusal of the record, it transpires that the short question which arises in the present writ petition is whether a widow, who has remarried the younger brother of her deceased husband, is entitled to family pension under Rule 8.35(b) of the Punjab Civil Services Rules, Volume II, particularly in light of allegations that she did not support the other dependents of her late husband. In this regard, it would be relevant to reproduce Rule 8.35 of the Punjab Civil Services Rules, Volume II, Chapter VIII, which reads as follows:-

8.35. (1) A family pension will take effect from the day following the date of death of the Government employee or from such other date as the competent authority may decide.

(2) A family pension will ordinarily be tenable –

(a)(i) In the case of widow or mother until death or re-marriage whichever occurs earlier.

(ii) in the case of a minor son, or minor brother, until he attains the age of 18;

(iii) in the case of an unmarried daughter or minor sister, until marriage or until she attains the age of 21, whichever occurs earlier.

(iv) in the case of a father, for life.

(b) Notwithstanding anything contained in sub-clause –



(a) a widow who re-marries her deceased husband's brother and continues to live a communal life with or contributes to the support of other dependants of her deceased husband shall not be disqualified for the grant of extraordinary pension otherwise admissible to her under these rules.

Note 1. A family pension granted to a posthumous child should commence from the date of his/her birth and not from the date of death of his/her father.

Note 2. The family pension of a widow will cease on re-marriage but when such re-marriage is annulled by divorce, desertion or death of the second husband her pension may be restored upon proof that she is in necessitous circumstances and otherwise deserving.”

7. A perusal of Rule 8.35 clearly stipulates that a widow who remarry her deceased husband's brother is entitled to family pension if she contributes to the support of the dependents of her deceased husband, however, the minor daughter Gurpreet Kaur through mother-in-law of the petitioner has filed a petition under Section 7, 8 and 25 of the Guardians & Wards Act by raising a specific ground that the petitioner has abandoned her minor daughter after her remarriage with brother of her deceased husband, from which she was blessed with two children. The petition filed by the minor daughter Gurpreet Kaur through her grandmother was contested by the petitioner and ultimately, in terms of the judgment rendered by the learned Guardian Judge, Phillaur on 21.04.1999, the family pension was released in favour of the



minor daughter Gurpreet Kaur. Further the family pension was discontinued in the year 2011 when the minor daughter Gurpreet Kaur attained the age of majority. The petitioner kept sitting over her rights for a considerable period of 05 years and could not provide any satisfactory reason to justify the delay in approaching this Court.

8. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel petitioner has failed to specify any compelling or extenuating circumstance which prevented her from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in *Chairman/Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225*, wherein, the following was held:

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In *SS Balu v. State of Kerala*, this Court observed thus:



“17. It is also well settled principle of law that "delay defeats equity". It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.” (emphasis added)

9. Further, in *Mrinmoy Maity vs. Chhanda Koley and others* **2024 AIR SC 2717**, the Hon’ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts.

10. Moreover, the reliance placed by the petitioner on *Bhagwan Dass’s case (supra)* is misplaced, as the said case pertains to Section 47 of the Persons with Disabilities Act, 1995, and is factually distinguishable.

11. In view of the above discussions, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India. Accordingly, the present petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

19.08.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No