2026:PHHC:057624

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107

CWP-11373-2026 (O&M)
Date of decision: 17.04.2026

Bimla Devi (since deceased) through her Legal Heirs

....Petitioner(s)

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anupam Sharma, Advocate for the petitioner(s).

Mr. Vikas Sonak, AAG, Punjab.

Mr. Aman Sharma, Advocate for respondent No.3.

HARPREET SINGH BRAR J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant arrears of family pension to the petitioner(s), being the legal heirs of deceased employee Bal Kishan and deceased widow Bimla Devi, for the period from 21.02.2002 till 29.01.2017, along with arrears of family pension and interest @ 18% per annum with all consequential benefits, in terms of judgment dated **14.11.2023** passed by this Court in **CWP-28133-2019**, titled as ***Dalip Kaur and others vs State of Punjab and others*** (Annexure P-3) and in view of the law laid down by the Hon'ble Supreme Court in **Civil Appeal Nos. 4951-4952 of 2009**, titled as ***The***

State of Punjab and another vs Mohinderjit Kaur (D) through L.R. (Annexure P-4).

2. Briefly stated, the facts of the case are that the father of the petitioner(s), namely Bal Kishan, was appointed as Regular T-Mate in the Irrigation Department of the State of Punjab on 03.11.1970. Subsequently, the tubewells of the Irrigation Department were transferred to the Punjab State Tubewell Corporation and the said employee was absorbed therein in public interest w.e.f. 09.12.1983. The deceased employee died on 20.02.2002 while in service, leaving behind his widow Bimla Devi and the present petitioners. The widow, though entitled, was not granted family pension and she also expired on 29.01.2017. The petitioners, being the legal heirs, seek arrears of family pension for the aforesaid period. Despite submission of representation dated 16.06.2025, no action has been taken by the respondents, compelling the petitioners to approach this Court.

3. Learned counsel for the parties are *ad idem* that the issue involved in the present writ petition is squarely covered by the judgment rendered by this Court in **CWP-28133-2019** titled as ***Dalip Kaur and others versus State of Punjab and others***, decided on **14.11.2023** (Annexure P-3).

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

5. The issue involved in the present case is no longer *res integra*. This Court in ***Dalip Kaur's case (supra)***, while relying upon

the judgment of the Hon'ble Supreme Court dated **17.08.2017** passed in **Civil Appeal Nos. 4951-4952 of 2009**, titled as ***The State of Punjab and another vs Mohinderjit Kaur (D) through L.R.*** has categorically held that the families of employees, who were transferred to non-pensionable establishments but were otherwise governed by Rule 5.3 read with Rule 6.17 of the Punjab Civil Services Rules, are entitled to family pension. The relevant findings of the said judgment, are reproduced as under:-

> *"7. Hon'ble the Supreme Court decided Civil Appeal Nos. 4951 and 4952 of 2009 on 17.08.2017. By a detailed judgment, Hon'ble the Supreme Court held that the employees, who after retirement were getting pension, their families are entitled for family pension as well under Rule 6.17 of the Punjab Civil Services Rules. The relevant judgment of Hon'ble the Supreme Court is as under:-*
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> > *These appeals are filed by the State aggrieved by the judgment of the High Court, wherein the High Court has taken a stand that the employees transferred to non-pensionable establishments will also be entitled to family pension in case they are covered under Rule 5.3 of the Punjab Service Rules. The said Rule reads as follows:-*
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> > > *"5.3(1) When a Government employee is transferred from pensionable Government service to a non-pensionable establishment, he cannot be granted any pension or gratuity admissible to him for the qualifying portion of his service until he actually retires from the non-pensionable establishment to which he is*

transferred. (2) A permanent Government employee who may be permitted to be permanently absorbed in a service or post in or under a corporation or a company wholly or substantially owned or controlled by Government or in or under a body controlled by Government or in or under a body controlled or financed by Government, or Municipality, Panchayat Samiti or Zila Parishad, shall, if such absorption is declared by Government to be in the public interest, be deemed to have retired from the Government service from the date of such absorption and shall be eligible to receive retirement benefits which he may have elected or deemed to have elected, and from the date of such absorption or the date of his voluntary retirement, whichever is later. Each such Government employee is required to exercise an option within six months of his absorption for either of the alternative indicated below:-

> *(a) receiving the monthly pension and death-cum-retirement gratuity under the usual government arrangements; or*
>
> *(b) receiving the death-cum-retirement gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation table obtaining on the date from which the commuted value becomes payable.*

(3) Where no option is exercised within the specified period, the employee will be automatically governed by alternative (b). An employee opting for alternative

> *(a) is entitled to commutation of a portion of the pension admissible to him in accordance with the provisions of rules contained in Chapter XI:*
>
> *Provided that Government shall have no liability for the payment of family pension in such a case:*
>
> *Provided further that no declaration regarding absorption in the public interest in a service or post in or under such corporation, company, Municipality, Panchayat Samiti or Zila Parishad shall be required in respect of Government employee whom Government may, by order declare to be a scientific employee."*

2. It is the persuasive submission of the learned counsel appearing for the State that the proviso under Rule 5.3 is applicable only in case of the pensioners covered under Rule 5.3(2)(a). In other words, it is the case of the appellants that in the case of Government employees transferred to non-pensionable establishments, even if they are in receipt of monthly pension, after their death, the surviving family members will not be entitled for family pension since the proviso under Rule 5.3(3) has carved out an exception, whereby the Government has been exempted from the liability. 3. We find it difficult to appreciate the submission. Family Pension Scheme is provided under Rule 6.17, which reads as follows:-

> *"6.17. The provisions of this rule shall apply:*
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> *(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 provision of*

> *Family Pension Scheme, 1964, for Punjab government Employees."*

> *4. It is not in dispute that the pensioners in these appeals are covered under the Scheme under Rule 6.17(b). Nowhere under the Family Pension Scheme is there a provision carving out the class of pensioners in receipt of monthly pension so as to deny the benefit of family pension. The Scheme having granted the benefit of family pension to such pensioners, the proviso, even assuming it applies to everybody, under the general rules cannot take away the benefit since the Family Pension Scheme is a special benefit granted to the pensioners.*
>
> *5. Thus, we wholly agree with the view taken by the High Court. These appeals are, accordingly, dismissed.*
>
> *6. The arrears of pension shall be disbursed to the respondents within a period of twelve weeks from today and if not, the same shall carry interest @ 12% from the date of the judgment of the High Court and the officers responsible for the delay shall be personally liable for the same.*
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> *7. Pending applications, if any, shall stand disposed of.*
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> *8. There shall be no orders as to costs."*

6. This Court in ***Dalip Kaur's case (supra)*** further held that the stand of the State in denying family pension was contrary to the settled position of law and accordingly allowed the writ petitions by directing the respondents to grant family pension in terms of the aforesaid judgments.

7. In the present case as well, the facts are identical. The deceased employee was absorbed in the Punjab State Tubewell Corporation in public interest and was governed by Rule 5.3 of the Punjab Civil Services Rules. The entitlement to family pension under Rule 6.17, as interpreted by the Hon'ble Supreme Court in ***Mohinderjit Kaur's case (supra)*** (Annexure P-4), squarely applies to the case of the petitioners. Therefore, the petitioners, being legal heirs of the deceased employee and his widow, are entitled to arrears of family pension for the period from 21.02.2002 till 29.01.2017.

8. In view of the above and in light of the law laid down by the Hon'ble Supreme Court in ***Mohinderjit Kaur's case (supra)*** (Annexure P-4), which was followed by this Court in ***Dalip Kaur's case (supra)*** (Annexure P-3), the present writ petition is allowed in the same terms.

9. The respondents are directed to grant arrears of family pension to the petitioners for the period from 21.02.2002 to 29.01.2017, along with all consequential benefits, within a period of two months from the date of receipt of a certified copy of this judgment.

10. Pending applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

17.04.2026
yakub Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No