



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-13496-2025 (O&M)
Date of decision: 28.01.2026

Jagmati Jain

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Virender Singh Punia, Advocate
with Mr. Varun Mor, Advocate
and Mr. P.P. Chahal, Advocate for the petitioner.

Mr. Vikrant Pamboo, Addl. A.G., Haryana.

Mr. Arvind Seth, Advocate (through video conferencing)
for respondent No.4/HSVP.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting-aside/quashing clause 12-A(viii) (Annexure P-1) (Dated 11.05.1977) to the extent of depriving family pension to the family members of permanently observed Government Employee in the public sector undertaking being contrary to the Family Pension Rules, 1964 being known as Punjab Civil Service (Pension) Rules as applicable to Haryana and also for setting-aside the order dated 06.08.2024 (Annexure P-8) passed by respondent No.2. Further a writ of *mandamus* has been sought, directing the respondents to pay the family pension along with interest @ 18% per annum to the petitioner



w.e.f. the date of her husband death along with arrears, which have accrued on account of non grant of family pension from the date of death of her husband. Further prayer has been made to decide the case of the petitioner in terms of **CWP-8712-2015**, titled as ***Tara Devi vs State of Haryana and others***, decided on **01.02.2017**.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is the widow of a government employee who initially served in the Urban Estate Department (respondent No.2) from 27.06.1963 to 30.09.1978 as discernible from Annexure P-2. The husband of the petitioner was subsequently sent on deputation and permanently absorbed in HUDA (now HSVP) (respondent No.4 herein), where he served from 01.10.1978 until his retirement on 30.04.2003 as is evident from Annexure P-3. During his lifetime, the deceased husband of the petitioner was drawing two pro-rata pensions, one from the Urban Estate Department (respondent No.2) for his service from 1963-1978 and another from HSVP (respondent No.4) for his service from 1978-2003 as discernible from Annexure P-5. After his death on 15.09.2023 (Annexure P-4), the petitioner was sanctioned family pension only by respondent No.4 (HSVP) for the period 1978-2003 (Annexure P-6), while her claim for family pension from respondent No.2 (Urban Estate Department) for the period 1963-1978 was rejected vide order dated 06.08.2024 (Annexure P-8), citing Clause 12-A(viii) of the Government Instructions dated 11.05.1977 (Annexure P-1), which allegedly barred the grant of family pension in such cases. Learned



counsel for the petitioner further submits that such rejection is arbitrary and inequitable as the petitioner is entitled to family pension for the entire period of her deceased husband's service. He further argues that the bar under Clause 12-A(viii) cannot override the legal entitlement of a widow to receive pension for services rendered and denial of the same amounts to a violation of the principles of natural justice, equity, and settled legal precedents recognizing dual service pension claims. Learned counsel for the petitioner, thus, submits that the claim of the petitioner for grant of family pension for the period 1963-1978 in addition to the pension already sanctioned by respondent No.4 is legally valid and the respondents cannot deny her rightful entitlement on the basis of Clause 12-A(viii) of the Government Instructions dated 11.05.1977 (Annexure P-1). He further contends that the case of the petitioner is squarely covered by the ratio of law laid down by this Court in *Tara Devi's case (supra)*.

3. *Per contra*, learned State counsel refers to the written statement filed on behalf of respondent No.2 and submits that in terms of the Government Instructions dated 11.05.1977 (Annexure P-1), any government servant absorbed in Public Sector Undertaking would have no liability for family pension from the previous employer and accordingly, the request of the petitioner for grant of family pension from respondent No.2 (Urban Estate Department) for the period 1963-1978 was rightly rejected. He further relies upon the Instructions dated 07.01.2002 issued by Finance Department, which provide that on taking



up an appointment by a Government employee in any State Autonomous Body or vice-versa, no family pension will be admissible from the previous employer/organization. The rules relating to family pension, if any, of the organization will be applicable in which the concerned Government employee was/is working at the time of retirement or at the time of death while in service. Learned State counsel further contends that in view of these Instructions, the rejection of the petitioner's claim is in accordance with law and regulations, and no additional family pension is admissible from the Urban Estate Department (respondent No.2).

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

5. From the perusal of the record, it is evident that the deceased husband of the petitioner, during his lifetime, was drawing two pro-rata pensions: one from the Urban Estate Department (respondent No.2) for the service rendered from 1963-1978 and another from HSVP (respondent No.4) for the service rendered from 1978-2003 (Annexure P-5). After his death on 15.09.2023 (Annexure P-4), the petitioner was sanctioned family pension by respondent No.4 (HSVP) for the period 1978-2003. However, her claim for family pension from respondent No.2 (Urban Estate Department) for the period 1963-1978 was rejected vide impugned order dated 06.08.2024 (Annexure P-8).



6. The interpretation of Government Instructions dated 11.05.1977 (Annexure P-1) came up for consideration before this Court in ***Tara Devi's case (supra)***, whereby it has been held as under:-

A short law point arising before this Court is as to whether the family of a deceased employee, who on account of previous service under the Government is entitled to pro-rata pension and dies while receiving the pension, then his family is entitled to family pension or not? The Family Pension Scheme, 1964 provides for grant of family pension to the family of deceased Government employee. Under the said scheme, the family pension is admissible on account of death of an employee after his retirement. Admittedly, wife is included in the definition of family. The instructions dated 11.05.1977 (Annexure P-1) deals with the transfer of Haryana Government employees to other Governments, Companies, Corporations, Boards, Municipal Committees etc. It deals with the various aspects on accounts of deputation of an employee. Rule 12 of the said instructions deals with grant of retiral benefit on permanent absorption in the Public Sector Undertakings. The said rule provides pro-rata pension and death-cum-retirement gratuity based on the length of his qualifying service under the Government till the date of absorption. It is apparently on the basis of this rule that husband of the petitioner was granted pro-rata pension. Now, the offending rule is Rule 12A (viii), which is reproduced as under:-

“(viii) Government would have no liability for family pension in such cases.”

I am of the view that the said rules run contrary to Family Pension Scheme, 1964. Once an employee on his



*retirement gets pension on account of service under the Government, he is at the same footing as an employee retired from the service of the Government qua his service is rendered with the Government. Therefore, the Government cannot make discrimination that the employee, who were absorbed under the other departments and who were being allowed pro-rata pension on account of service rendered under the Government then his family will not be allowed family pension. Once a retired employee is getting pension from the Government, the necessary consequences will follow that on account of his death, his family will be on the same footing as that of a retired employee under the Government and be entitled to family pension as such. **Accordingly, the said Rule 12A (viii), which is reproduced above, denying the liability of the Government for family pension in such cases is held illegal and struck down.** Accordingly, the petition is allowed. Respondent are ordered to allow the family pension to the petitioner from the date of death of her husband. Needful be done within three months from the date of receipt of certified copy of this order.*

7. Further, the reliance of respondent No.2 on the Instructions dated 07.01.2002 issued by Finance Department, is of no consequence as the husband of the petitioner was already receiving two pro-rata pensions after his retirement on 30.04.2003 and as such, these Instructions could only be applicable prospectively to the cases in which a government employee or employee of state autonomous body or vice-versa is absorbed in Public Sector Undertaking after issuance of these Instructions.



8. Moreover, pension and other retiral benefits do not possess a gratuitous nature. Rather, such benefits accrue to a retiree by virtue of dedicated service rendered by him to his employer for a significant portion of his life. A Constitution Bench of the Hon'ble Supreme Court in *D.S. Nakara and others vs. Union of India (1983) 1 SCC 305* has categorically stated that pension is not a matter of bounty or grace but a vested right. Speaking through Justice D.A. Desai, the following was opined:

*“20. The antiquated notion of pension being a bounty, a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in Deoki Nandan Prasad v. State of Bihar, 1971 (Supp) SCR 634 wherein this Court authoritatively ruled that **pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon anyone's discretion.** It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab v. Iqbal Singh, (1976) 3. SCR 360 .*

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*28. Pensions to civil employees of the Government and the defence personnel as administered in India appear to be a compensation for service rendered in the past. However, as held in Dodge v. Board of Education, (1937) 302 US 74 : 82 Law Ed 57 a pension is closely akin to wages in that it consists of payment provided by an employer, **is paid in consideration of past service and serves the purpose of helping the recipient meet the expenses of living. This appears to be the nearest to our approach to pension with***



the added qualification that it should ordinarily ensure freedom from undeserved want.

29. Summing-up it can be said with confidence that **pension is not only compensation for loyal service rendered in the past, but pension also has a broader significance, in that it is a measure of socio-economic justice which inheres economic security in the fall of life when physical and mental prowess is ebbing corresponding to ageing process and therefore, one is required to fall back on savings.** One such saving in kind is when you gave your best in the he day of life to your employer, in days of invalidity, economic security by way of periodical payment is assured. The term has been judicially defined as a stated allowances or stipend made in consideration of past service or a surrender of rights or emoluments to one retired from service. **Thus the pension payable to a Government employee is earned by rendering long and efficient service and therefore can be said to be a deferred portion of the compensation for service rendered. In one sentence one can say that the most practical raison d'etre for pension is the inability to provide for oneself due to old age. One may live and avoid unemployment but not senility and penury if there is nothing to fall back upon.**”

(emphasis added)

9. The approach adopted by respondent No.2 in depriving the petitioner of family pension is wholly unjustified. Retiral benefits are often the sole source of sustenance for the family of a deceased employee. It was also observed in ***D.S. Nakara's (supra)*** that pension and retiral benefits are akin to wages, relied upon the pensioner and his family for assistance post-retirement. In this context, reference is also drawn to the Constitution Bench judgment in ***Olga Tellis vs. Bombay Municipal Corporation (1985) 3 SCC 545***, wherein the Hon'ble Supreme Court expanded the scope of Article 21 to include the right to



livelihood. Speaking through Justice Y.V. Chandrachud, the following was observed:

32. ...An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. **If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live.** And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. **Deprive a person of his right to livelihood and you shall have deprived him of his life. ...**”

(emphasis added)

10. Furthermore, the right to life enshrined in Article 21 of the Constitution of India, is not limited to mere animal like existence but includes the right to live a meaningful life, with dignity in the truest sense of the term. The Hon’ble Supreme Court in ***Francis Coralie Mullin vs. Administrator, Union Territory of Delhi (1981) 1 SCC 608*** has opined that any act offending human dignity constitutes a violation thereof. It was further clarified that bare necessities such as ***“adequate nutrition, clothing and shelter over the head and facilities for reading,***



writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings” as well as any other activities constituting a “*bare minimum expression of human self,*” subject to the degree of economic development of the State, form a part and parcel of right to life under Article 21 of the Constitution of India.

11. This Court finds force in the reasoning given in *Tara Devi’s case (supra)* that once an employee retires and is receiving pension for service rendered under the Government, the employee’s family cannot be denied family pension because the employee was later absorbed in a Public Sector Undertaking. The family pension is a natural right that follows from the pension already granted and no rule or instruction can take away this entitlement, therefore, the petitioner is entitled to family pension for the period 1963-1978 from respondent No.2.

12. In view of the foregoing reasons, it is manifest that the petitioner’s claim for family pension from respondent No.2 for the period 1963-1978 is legally valid and in accordance with the Family Pension Rules, 1964, as well as the settled ratio of law laid down in *Tara Devi’s case (supra)*. The denial of family pension by respondent No.2 is arbitrary, inequitable and violative of the petitioner’s vested rights. Pension, being a deferred remuneration for long and dedicated service, constitutes a substantive legal right and is essential for the

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sustenance and dignity of the family of the deceased employee under Article 21 of the Constitution of India.

13. Consequently, the writ petition is allowed, the impugned order dated 06.08.2024 (Annexure P-8) is set-aside and respondent No.2 is directed to grant family pension to the petitioner for the period 1963-1978 along with interest @ 6% per annum from the date of death of her husband i.e. 15.09.2023, till actual payment, within a period of three months from the date of receipt of a certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

28.01.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No