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

208 **CWP-23371-2015**
Date of Decision: 03.02.2026

Santosh Devi **…Petitioner**

Versus

State of Haryana and others **…Respondents**

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Rajat Mor, Advocate and
Mr. Vishesh Dhaka, Advocate for the petitioner

Mr. Ravi Partap Singh, Deputy Advocate General, Haryana and
Mr. Akshit Pathania, Assistant Advocate General, Haryana
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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 01.12.2014 whereby her representation to grant family pension was rejected. She is further seeking direction to respondents to grant her family pension in accordance with New Pension Scheme.

2. The petitioner's son was recruited as Constable in India Reserve Battalion, 4th Battalion, Manesar on 26.08.2011. Unfortunately, he died in a road accident on 20.09.2014. He was unmarried. The petitioner claimed family pension. Her case was recommended to Director General of Police, Haryana, however, came to be rejected vide order dated 01.12.2014 on the sole ground that her income was more than ₹3,500/- per month, hence, she was not entitled to family pension under the Family Pension Scheme, 1964 (for short '**1964 Scheme**'). Her son joined on 26.08.2011 and was governed by New Pension Scheme.

3. Learned counsel for the petitioner submits that respondent has wrongly applied income criteria of ₹3,500/- per month. The Government vide letter dated 16.01.2009 has clarified that income criteria for grant of financial assistance to dependent of deceased government employee is not applicable. The respondent in view of aforesaid clarification could not apply income criteria.

4. *Per contra*, learned State counsel submits that petitioner's husband is working in Haryana Roadways. Their family income was more than ₹25,000/- per month, thus, petitioner could not be treated as fully dependent upon her son.

5. On being asked, learned counsel for the petitioner expressed his inability to controvert that petitioner's husband is working in Haryana Roadways and getting salary from State Government.

6. Heard the arguments and perused the record.

7. From the perusal of record, it is evident that Governor of the State vide notification dated 01.08.2006 in exercise of power conferred by Article 309 of Constitution of India introduced Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short '**2006 Rules**'). 2006 Rules came into force w.e.f. 01.08.2006. Rule 3 thereof provides that eligibility to receive financial assistance shall be as per the provision in the pension/family pension scheme. The expression '*family*' has been defined under Family Pension Scheme, 1964. Clause 4(ii) of 1964 Scheme which defines expression '*family*' reads as:

"(ii) "Family" for the purpose of this scheme includes the following relatives of the officer: -

(a) wife, in case of a male officer;

(b) husband, in case of a female officer;

(c) minor sons:

(d) unmarried minor daughters;

(e) widowed/legally divorced daughters; and

(f) <u>the parents of an unmarried officer</u>

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

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

[Emphasis supplied]

8. Clause 4(iii) of the 1964 Scheme provides that pension is admissible to parents who were wholly dependent on the Government employee when he/she was alive upto the date of death provided that the deceased employee had left behind neither a widow nor a child. Clause 4(iii) of the 1964 Scheme reads as:-

"(iii) The pension is admissible: -

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

(b) in the case of son/unmarried daughter including widowed/divorced daughter until he/she attains the age of 25 years; and

(c) <u>In the case of parents who were wholly dependent on the Government employee when he/she was alive, up to the date of death provided the deceased employee had left behind neither a widow nor a child</u>.

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 will 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 their earning is not more than Rs. 2550/- per month. The upper ceiling of family pension will be 30% of basic pay of the deceased employee, subject to a minimum of Rs. 1913/- per month.

Note:(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) Except as provided in the Note below sub-para (iii) of this para, pension awarded under this scheme will not be payable to more than one member of an officer's family at the same time. It will first be admissible to the widow/widower and thereafter to the eligible minor children.

(iv) In the event of remarriage or death of the widow/widower the pension will be granted to the minor children, through their natural guardian, if any, otherwise through their de facto guardian on production of indemnity bond, etc., on the analogy of

> *the orders contained in F.D. circular letter No 6837-(5)FR-1-61/8358, dated the 29th July, 1961. In disputed cases, however, payments will be made through a legal guardian (i.e. guardian appointed by a court of law).”*

[Emphasis supplied]

9. From the perusal of above-quoted Clause 4(iii) of the 1964 Scheme read with Rule 3 of 2006 Rules, it is evident that parents are entitled to family pension provided deceased employee had left behind neither a widow nor a child. They are further supposed to establish that they were fully dependent on the Government employee when he was alive. In the Scheme, it has been considered that if parents are earning more than ₹2,550/- per month, they would not be treated as dependent upon deceased employee. Monetary limit of ₹2,550/- was determined in 1964 and said limit could not be considered in 2006, thus, State Government vide clarification dated 16.01.2009 clarified that income criteria would not be applicable. By said clarification, the income criteria, as prescribed in 1964 Scheme, was made inapplicable to 2006 Rules, however, neither any amendment was made in 2006 Rules, nor any clarification was issued providing that parents would be entitled to financial assistance irrespective of whether they were dependent upon deceased employee or not. Meaning thereby as per 2006 Rules, financial assistance is available to parents if they were fully dependent upon deceased employee who was unmarried.

10. The matter may be examined in the light of provision of Motor Vehicles Act, 1988 (for short ‘**MV Act**’) and Railways Act, 1989 (for short ‘**Railways Act**’). Section 166 of MV Act provides that an application for compensation may be made by all or any of legal representative of the deceased. Section 123 of Railways Act declares that parents of unmarried or

minor child are dependent. They fall within definition of '*dependent*', in case of major or married child, if they were wholly or partly dependent upon the deceased passenger. Section 166 of MV Act and Section 123 of Railway Act read as:

Section 166 of MV Act

"166. Application for compensation.- (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made--

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the

defendant resides, and shall be in such form and contain such particulars as may be prescribed:

(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.

(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not."

[Emphasis supplied]

Section 123 of Railways Act

"123. Definitions.- In this Chapter, unless the context otherwise requires,

(a) "accident" means an accident of the nature described in section 124;

(b) "dependant" means any of the following relatives of a deceased passenger, namely:--

(i) the wife, husband, son and daughter, <u>and in case the deceased passenger is unmarried or is a minor, his parent</u>;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grandparent wholly dependant on the deceased passenger;

[Emphasis supplied]

11. From the perusal of above quoted provisions of MV Act and Railways Act, it is evident that as per MV Act, any legal representative of the deceased may file claim petition. He is not required to prove whether he was wholly or partly dependent upon deceased. In the event of railway accident, parents are dependents in case deceased passenger is minor or unmarried. In other cases, they are dependent, if they are wholly or partly dependent on the deceased passenger. The provisions of these enactments indicate that legislature has made different provisions under different beneficial schemes.

12. In the case in hand, the State has framed beneficial scheme of financial assistance. As per 2006 Rules read with pension Scheme, parents are entitled, if they were wholly dependent on the Government Employee when he was alive. It is settled proposition of law that beneficial scheme must be read liberally, however, literal meaning cannot be ignored. As per 2006 Rules, benefit is not available to parents who were not dependent upon deceased employee at the time of his death. In the present case, concededly, the petitioner at the time of death of employee was dependent upon her husband. The petitioner’s husband, at the time of death of the employee, was a Government employee, thus, it cannot be held that petitioner was fully dependent upon her deceased son. In the absence of contrary evidence, it cannot be held that petitioner was dependent upon deceased employee. The respondent has pointed out that petitioner’s family was having monthly income of more than ₹25,000/-, thus, petitioner was not dependent upon deceased employee. The petitioner has not brought on record any evidence to establish that she was not dependent upon her husband who is a Government Employee rather was dependent upon deceased son.

13. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

03.02.2026
Mohit Kumar

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