

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-37597-2019 (O&M)

Priya
... Petitioner

VS.

Union of India & Ors.
... Respondents

1.	Judgment reserved on	29.01.2026
2.	Judgment pronounced on	30.03.2026
3.	Judgment uploaded on	30.03.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. KS Boparai, Advocate for the petitioner

Ms. Ghena Vaishnavi, Sr.Panel Counsel for the respondents

Sandeep Moudgil, J.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, inter alia, for issuing a writ of mandamus directing the respondents to pay her pension being surviving widow of the deceased Army Officer Major Hari Singh, at enhanced rate at par with other widows along with arrears and interest from the date of her entitlement.

Facts.

(2). The petitioner-Priya is the widow of Late Major Hari Singh, who died on 17.11.1995. One Smt. Swaran Kaur was the first wife of Major Hari Singh who too died. Thereafter, he re-married with Mohinder Kaur in 1966 and out their wedlock, two children were born, however, Mohinder Kaur deserted him soon thereafter. Hari Singh impressed upon the petitioner that he was a widower and as such, they ceremonially performed marriage in 1989. The

petitioner, who was also a Major in NCC, had to resign after marriage and they started living together as husband and wife upto 17.11.1995.

(3). After the death of Hari Singh, his first wife Mohinder Kaur filed Civil Suit seeking declaration regarding her title to receive retirement benefits of Major late Hari Singh. The said suit was decree vide judgment and decree dated 05.08.1999, however, the same was reversed in appeal and vide judgment dated 23.01.2022, the appellate Court held the petitioner to be a legally wedded wife of Major late Hari Singh which stood proved from marriage certificate issued by the Gurudwar regarding Anand Karaj ceremony besides a Will bequeathing his properties in favour of the petitioner. Mohinder Kaur filed RSA No.1006 of 2002 challenging the said appellate court judgment and this Court vide judgment dated 23.01.2002 allowed the said regular second appeal and restored the judgment and decree passed by the trial court and the said judgement has since attained finality after the dismissal of the SLP filed by the petitioner before the Supreme Court. Consequently, she received family pension. However, Mohinder Kaur died on 18.10.2006 and since her children are major, so they were not entitled to receive family pension under the Army Pension Rules. As such, after the death of Mohinder Kaur, the petitioner being wife of the Major late Hari Singh is the only surviving widow and entitled to receive pension particularly in view of the fact that she has no other source of income. However, vide letter dated 29.04.2016 (Annexure P19), the respondents refused to grant any relief to the petitioner in view of the judgment of this Court in RSA.

(4). Hence this writ petition.

Contentions raised on behalf of the petitioner

(5). Learned counsel for the petitioner contends that the only reason for denial of the petitioner's claim for family pension was that the co-widow Mohinder Kaur was receiving the family pension and since she has expired, the petitioner is entitled to family pension as per Rule 98 of the Army Pension Rules, which provides that where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal share and as such, in view of the aforesaid provision, the decision rendered in the litigation inter se the widows cannot come in the way for release of family pension to the surviving widow. It is urged that her case for grant of family pension was forwarded by the President's Secretariat to the Ministry of Defence on 15.09.2016, however, no action has been taken by the respondents.

(6). It is further pleaded that the marriage of the petitioner with Major Hari Singh is duly proved, nevertheless, in the earlier proceedings, the Court confined the grant of service benefits and pension to Mohinder Kaur alone on the footing that, as the first wife, she had a better title than the petitioner as second wife and this adjudication was rendered without the specific plea or consideration that the petitioner had an independent and concurrent right to family pension as a **co-widow** under the applicable Army Pension Regulations, which permit the grant of pension to more than one widow and as such, the petitioner was entitled to a share in the family pension even during the lifetime of Mohinder Kaur, and, in any event, to full family pension with effect from 18.10.2006, when Mohinder Kaur admittedly died, leaving the petitioner as the only surviving widow of the deceased officer and therefore, the earlier decisions, having been rendered without examination of this material statutory

right, cannot operate as a bar to the present claim for family pension and requires reconsideration to that limited extent.

(7). The petitioner further submits that her right to family pension crystallised on the death of her husband, and the corresponding obligation to release pension and arrears is that of the State, pension being a vested statutory right and not a matter of grace. Reliance has been placed on **Gurdip Singh (Subedar) v. Union of India, 1997 (3) SC T 414**, to contend that pension being an obligation of the Government, it would be grossly unfair to allow the Government to take advantage of delay on the part of the claimant, and that at best interest on arrears may be curtailed but the substantive pension cannot be denied solely on grounds of laches.

(8). Short reply was filed by the respondents on 01.07.2025 in the Registry, however, as depicted from record, vide order dated 18.07.2025, the respondents prayed to withdraw the short reply dated 01.07.2025. However, taking into account the fact that on earlier occasions, sufficient number of opportunities were granted to the respondents to file their response and were indulging in prolonging the case pertaining to disbursement of family pension on account of incomplete or contradictory instructions, this Court imposed cost of Rs.25,000/- upon the respondents payable to the account of the petitioner.

Counter by the respondents

(9). Additional reply has been filed by the respondents on 02.08.2025 wherein it has been averred that the petitioner is seeking family pension under the Army Pension Regulations solely on the assertion that her late husband, Maj. Hari Singh, retired from the Army in the rank of Major, however, as per the service record, late Maj. Hari Singh served as a National Cadet Corps

(NCC) Whole Time Officer (WTO), which is a civilian post under the administrative and financial control of the Ministry of Defence (Civil), and his pensionary entitlements were governed by the Central Civil Services (Pension) Rules, 1972, and not by the Army Pension Regulations. Reference has been made to Government of India letter No. 5431/ DGNCC/ PC/ MS(B)/ 1130/ A/D (GS-VI) dated 23.05.1980, which specifically stipulates that NCC WTO pensioners are to be governed by the CCS (Pension) Rules, 1972, and not by the Army Pension Code and as such, in the absence of any documentary proof showing late Maj. Hari Singh to have ever borne on the Regular Army cadre, the claim to family pension under the Army Pension Rules is legally untenable and liable to be rejected.

(10). It is further submitted that even under the applicable CCS (Pension) Rules, 1972, the petitioner has not discharged the burden of establishing her legal status as the lawful and surviving spouse of late Maj. Hari Singh, which is a condition precedent for grant of family pension under Rule 54 of the Army Pension Rules, which contemplates payment of family pension only to a legally wedded wife (or judicially separated wife, as the case may be) in the case of a male Government servant, and excludes a second woman whose marriage is void under the personal law from being treated as “wife” for the purpose of family pension. This Court in RSA filed by Mohinder Kaur had already declined to recognise the petitioner as a legally wedded wife or co-widow of late Maj. Hari Singh, and the Special Leave Petition preferred by her against the said decision has also not resulted in any declaration in her favour and in these circumstances, it is not open to the petitioner to circumvent the earlier adjudication and claim family pension as of right, until and unless

her status as a lawful spouse within the meaning of Rule 54 of the CCS (Pension) Rules, 1972 by an appropriate Court.

(11). Heard learned counsel for the parties and this Court kept reserved the judgment on 29.01.2026.

Analysis & Finding

(12). The pivotal question that arises for consideration is whether the petitioner can, in the facts of the present case, be treated as “widow” of late Major Hari Singh so as to claim family pension after the death of Mohinder Kaur, particularly when the marriage between the petitioner and late Major Hari Singh has not been held to be a valid marriage up to the Hon’ble Supreme Court. The answer to this question must be found, not in equitable considerations alone, but within the four corners of the applicable pension regime and the binding civil adjudication inter se the parties.

(13). Insofar as the Pension Code is concerned, it is not in dispute that late Major Hari Singh, at the material time, was serving as a National Cadet Corps Whole Time Officer (WTO), which is a civil post under the administrative and financial control of the Ministry of Defence (Civil), and that his pensionary entitlements were governed by the Central Civil Services (Pension) Rules, 1972, and not by the Army Pension Regulations. The Government of India has specifically clarified that NCC WTOs are to be treated as civil pensioners governed by the CCS (Pension) Rules, 1972, and not as Army pensioners. In this backdrop, any entitlement to family pension must necessarily be tested against Rule 54 and allied provisions of the CCS (Pension) Rules, which envisage payment of family pension to the “widow” or

“widower” of a deceased Government servant and, by settled interpretation, confine that expression to a legally wedded spouse in a valid marriage.

(14). Turning to the civil litigation between Mohinder Kaur and the present petitioner, the trial Court framed, inter alia, issue No.3—“Whether Priya Hari Singh is the legally wedded wife of late Major Hari Singh?”—and, upon appreciation of the evidence, answered the same against the petitioner. The Court relied on the marriage-registration certificate produced by Mohinder Kaur, recording Hari Singh as a widower at the time of his marriage with her, and the consistent evidence that the sons Paramjit Singh and Joginder Singh were born from Swaran Kaur, while Damanjit Singh was born from Mohinder Kaur, as also reflected in the very Will set up by the petitioner. On this material, the trial Court held that the ceremony of marriage pleaded by defendant No.3–Priya (petitioner), even if proved factually, could not, in law, constitute a valid marriage when contracted during the subsistence of an earlier valid marriage, and that such a second marriage remains invalid even if no separate declaratory decree is sought.

(15). Evidently, the trial court concluded and rightly so that Mohinder Kaur was the legally wedded wife entitled to succeed to the service benefits of late Major Hari Singh and the present petitioner was held to be not the legally wedded wife of Major Hari Singh. The Regular Second Appeal filed by Mohinder Kaur was allowed by this Court, restoring the trial Court’s decree, and the Special Leave Petition carried by the petitioner failed before the Hon’ble Supreme Court. The result is that now there exists a binding and final determination that, as between the two rival claimants, only Mohinder Kaur

enjoyed the legal status of wife of late Major Hari Singh and that the marriage set up by the petitioner was invalid.

(16). Once this position is accepted, the petitioner’s attempt to invoke the Army Pension Regulations or even the CCS Rules or for that matter, to step into the shoes of Mohinder Kaur after her demise cannot be sustained. Provisions permitting division of family pension between more than one widow or its continuance to the surviving widow are premised on the existence of two or more *legally* recognised widows. They do not and cannot validate an otherwise void marriage or confer widow-status on a woman whose claim to that status has already been negated by a competent civil court.

(17). It is settled law that a second marriage contracted during the subsistence of a first valid marriage is null and void, that a woman in such a relationship does not acquire the status of “wife” or “widow” for family pension purposes, and that the subsequent death of the first wife does not retrospectively cure the defect so as to create a fresh pensionary right in favour of the second woman. In other words, the right to family pension is a statutory entitlement that flows from a valid marital status on the date of death of the employee, and cannot be created *de novo* upon the later death of the lawfully recognised widow.

(18). The writ petition is accordingly dismissed.

(19). Pending application(s), if any, stands disposed of.

(20). Ordered accordingly.

30.03.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No