
(1996) 04 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11616 of 1993

Air Marshal Shivdev Singh (Dead) through his Lrs.s

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 17-04-1996

Acts Referred:

Citation : (1997) 1 RCR(Civil) 269

Hon'ble Judges : V.K.Bali, J

Advocate : Mr. A.G. Masih, Asstt. Advocate General (Punjab)., Mr. K.S. Grewal, Advocate., Advocates for appearing Parties

Judgement

V.K. Bali, J. (Oral)

1. Air Marshal Shivdev Singh who died during the pendency of the writ petition and in whose place his legal heirs came to be substituted and arrayed as party petitioner, filed a petition seeking a writ in the nature of mandamus directing respondents herein to release and pay all related and incidental reliefs alongwith pension as admissible from time to time.

2. The controversy with regard to the entitlement of the petitioner is not at all disputed. After having a long innings in the Indian Air Force, Air Marshal Shivdev Singh came to be appointed as Member of Punjab Public Service Commission on 28th April, 1978 from which appointment he retired on 27th of April, 1979. He successfully contested the claim of the pension by filing Civil Writ Petition on that behalf bearing No. 15436 of 1989 which was allowed on 19th of November, 1990 (Annexure P1). His pension papers were issued thereafter on 1st of June, 1991. Vide notification issued on that behalf on 25th of September, 1984 (Annexure P2) clause 4 was added in the Punjab State Public Service Commission (Conditions of Service) Regulations, 1958 in regulation 8 after clause (3). The added clause reads thus:

“4 The Chairman or Member who is entitled to pension under clause (3) shall be entitled to graded relief in pension at the rates admissible to Punjab

Government Pensioners.'''

The pension of the petitioner was determined/fixed in conformity with added clause 4 reproduced above. Vide notification dated 31.8.1989 Annexure P3 and P4 some other reliefs were granted to the pensioners of the Punjab Government employees. In so far as the same are applicable to the petitioner, the same were travel concession and the old age allowance as contained in paras 9 and 10 of Annexure P3 as also merger in the basic pension as envisaged under para 4 of Annexure P4. Whereas respondents herein allowed relief as contained in Annexure P3 to the petitioner, the reliefs detailed in paragraph 4 of Annexure P4 was declined to him. It is this basic relief which has been stated in the present petition.

3. During the course of arguments, the Counsel representing the parties agreed that vide notification dated 5.2.1992 (Annexure P5), the petitioner was actually entitled to reliefs claimed both in Annexure P3 in P4. From the effective date of Annexure P5, the petitioner would be entitled to relief claimed by him by virtue of issuance of Annexure P3 and P4, reference whereof has been given above. As mentioned above, the relief to which the petitioner was entitled to vide Annexure P3 had already been given and for no cogent reason the relief to which the petitioner was entitled vide Annexure P4 was refused to him. The learned Counsel for the parties are also in the agreement with regard to entitlement of the petitioner of his pension to be calculated in the way and manner as envisaged in notification Annexure P5 with effect from 6.2.1992.

4. That being the position, as referred to above, this petition has to be allowed. A direction is, thus, issued to the respondents herein to pay to the legal heirs of Air Marshal Shivdev Singh the benefits contained in para 4 of the Annexure P4. In so far as the pension of the petitioner from 6.2.1992 to 29.12.1993 the date when he died is concerned, the same concededly stands paid to him by calculating the same in view of Annexure P5.

This petition is, thus, disposed of in the manner as indicated above.