

(2012) 11 P&H CK 0162
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15695 of 2008

Manpreet Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 26-11-2012

Acts Referred:

Citation : (2013) LabIC 852

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : L.M. Gulati, for the Appellant; Sudeepti Sharma, DAG, Punjab, for the Respondent

Judgement

Tejinder Singh Dhindsa, J.—The husband of the petitioner namely Sh. Parminder Singh was working as a Constable in the Punjab Police and was killed by the terrorists on 15.11.1990. It has been asserted by the present petitioner that after the death of her husband, the petitioner has not re-married and has not even been granted any compassionate appointment and as such, was vested with a right to claim family pension. It is further contended that the State Government in terms of letter dated 30.11.1994 took a decision to grant relief/concessions to the dependents of the Government employees killed in terrorist violence. In terms thereof, the petitioner had been granted family pension on 11.11.1994. The present writ petition has been filed in terms of raising a grievance that the State Government unilaterally and without affording any opportunity and still further, without even passing of specific order to such effect has reduced the family pension.

2. Upon notice having been issued, a reply on behalf of respondent Nos. 2 & 3 has been filed. In terms of averments contained in the reply, it has been stated that the petitioner had tendered an affidavit submitting her no objection with regard to the appointment of the brother of deceased Parminder Singh on priority basis. Accordingly, Surinder Singh, brother of the deceased husband of the petitioner has been appointed as a Clerk in the Excise and Taxation

Department vide order dated 15.11.1994. It has further been stated that the petitioner namely Manpreet Kaur has solemnized her second marriage with the aforementioned Surinder Singh i.e. the brother of her deceased husband and she even has two children out of such wedlock. Counsel has further justified the reduction in the family pension granted to the petitioner in terms of placing reliance upon instructions dated 04.12.2001 whereby if any member of a terrorist affected family has got a job on priority basis then D.A. will not be admissible on such family pension. A copy of the notification dated 4-12-2001 stands appended as Annexure R-6.

3. Counsel for the parties have been heard at length.

4. Undisputedly, the petitioner had been granted family pension in the year 1994 itself. It has gone un rebutted that the family pension has been reduced at the hands of the State Government without issuance of any show cause notice to the petitioner and without even affording any opportunity of hearing. Even if, in terms of the instructions dated 04.12.2001 (Annexure R-6), DA was not admissible upon the family pension payable to the petitioner, still, it was incumbent for the State/Competent-authority to have complied with the principles of natural justice and to have afforded to the petitioner, an opportunity of hearing disclosing the basis of such reduction in the family pension. It is by now well settled that no order having adverse civil consequence can be passed at the back of an employee. It is further noticed that vide interim order dated 04.09.2008, a Division Bench of this Court had stayed the recovery to be effective to the petitioner.

5. In the light of the facts noticed hereinabove and on the basis of the submissions made by the respective counsel for the parties, the present writ petition is allowed in terms of holding State action in reducing the family pension from the petitioner to be bad in law. Liberty is, however, granted to the State to pass orders afresh in the light of the instructions dated 04.12.2001 as regards admissibility of DA on the family pension paid to the petitioner. Such order shall be passed only upon grant of due opportunity/notice to the petitioner. Writ petition disposed of accordingly.