

(2019) 10 P&H CK 0235

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 25082 Of 2016

Shabo (Since Deceased) Through Her Lr

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Citation : (2019) 10 P&H CK 0235

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Sandeep Singal, C.S. Bakhshi

Final Decision : Disposed Of

Judgement

Harsimran Singh Sethi, J

In the present petition, the grievance which is being raised by the petitioner is that she was entitled for two family pensions i.e. one for the service, which her late husband had rendered with the Indian Army and second for the service, which her late husband had rendered with the State of Haryana but petitioner has not been granted the family pension by the State of Haryana for the service rendered by her late husband.

Learned counsel for the petitioner argues that petitioner was not granted the family pension for the service which her late husband had rendered with the state of Haryana on the ground that two family pensions are not admissible, but keeping in view the Instructions, which has been issued by the Government of India dated 17.01.2013 (Annexure P-11), the pensioners from the Armed Forces, who were later on employed with the Civil Departments/PSUs/Autonomous bodies/Local Funds of Central/State Governments after their retirement, can also get the family pension after their retirement/death from the said Department. Learned counsel for the petitioner prays that petitioner, who is the widow of Zile Singh, be granted the benefit of family pension by the State of Haryana, after Zile Singh had died on 10.04.1977.

Learned counsel for the respondent-State informs this Court that vide order dated 21.03.2018, a copy of which has been attached as Annexure R-1 along with the reply of the respondents, petitioner Shabo has been held entitled for the family pension from 17.01.2013 till 02.04.2017 by the State of Haryana as well.

Learned counsel for the respondents though admits that petitioner was entitled for the benefit of family pension from 17.01.2013 i.e. date of Notification by the Government of India (Annexure P-11) till 02.04.2017 but as the petitioner, unfortunately, died on 2.04.2017 and no one has submitted the papers substantiating their claim of being the legal heirs of said Shabo, hence, no benefit could be released. The relevant averments made in the reply are as under:-

"7. That the Accountant General Haryana vide his letter dated 30.11.2017 has raised some objections and also mentioned that as per Govt. Letter dated 02.09.2006, in case of delay of more than one year in family pension case, special sanction of Govt. is required. Copy of letter dated 30.11.2017 is attached as Annexure R-3. However, in the mean time, a fresh file was prepared for family pension of the petitioner and for want of her signatures, efforts have been made to contact Sh. Rajmal (son of petitioner) on his mobile phone No. 9468420524 but as his mobile phone was found switched off time and again, so special messenger was deputed to the house of petitioner on 26.11.2017 in this regard, where he came to know that petitioner had already been expired on 02.04.2017.

8. That in view of the death of petitioner and in view of the objections of the Accountant General, Haryana raised vide his letter dated 30.11.2017 (Annexure R-3) case was sent to Government for special sanction of arrears of family pension of petitioner Shabo w.e.f. 24.09.2012 to 02.04.2017 (i.e. upto the date of death of petitioner). The Govt. has accorded sanction for the same vide letter dated 21.03.2018. Copy of letter dated 21.03.2018 is attached as Annexure R-4.

9. That it is pertinent to mention here that during the pendency of present writ petition, the petitioner namely Late Smt. Shabo Devi wife of Late Sh. Zile Singh expired on 02.04.2017 and Sh. Rajmal son of Late Sh. Zile Singh filed an application for bringing on record the legal representative of the petitioner vide CM No. 2628 of 2018 which was allowed by Hon'ble Court vide order dated 01.03.2018. As per order dated 01.03.2018, the person mentioned in para 2 of the application is ordered to be impleaded as legal heir of petitioner. In para 2 of said application, it was contended by the applicant:

"That during the pendency of the above mentioned writ petition, the petitioner Shabo had died on 02.04.2017 leaving behind the following legal heir:-

Rajmal son of late Sh. Zile Singh resident of House No. 36, Village Bedwa, Tehsil Meham, District Rohtak, Haryana."

10. That for release of arrears of family pension of the petitioner, documents as desired by Accountant General, Haryana are required to be completed. Sh.

Rajmal (son of petitioner) is claiming that he is the only legal heir of the petitioner and as stated above in para No. 9 that the Hon'ble Court allowed CM No. 2628 of 2018 and ordered to implead the applicant Sh. Rajmal as legal heir of deceased of the petitioner. However, as per official record, D.C.R.G. of late Sh. Zile Singh (Husband of petitioner) was released by Accountant General, Haryana in equal portion to petitioner (wife of Zile Singh), Rajbir Singh (son), Sheela (daughter). Further, it is pertinent to mention here that the details of the legal heirs of late Sh. Zile Singh has also been mentioned by the deceased Smt. Shabo in para No. 2 of the present writ petition. Jaswant Singh (son), Surender Singh (son), Rajmal (son) and Sharmila (daughter). Sh. Rajmal (son of petitioner) has not clarified the position regarding the other legal heirs of the petitioner. Accordingly, he has been asked vide letter dated 05.07.2018 to clarify the position regarding other legal heirs of the petitioner and to furnish the no objection certificate from other legal heirs, if any, so that after the completion of necessary documentation, the case for releasing the arrears of family pension of the petitioner may be forwarded to Accountant General, Haryana. Copy of letter dated 05.07.2018 is attached as Annexure R-5.

Therefore, for releasing of arrears of family pension to the legal heirs of the petitioner, answering department will be able to forward the family pension case of legal heirs only after clarifications of all the legal heirs of the petitioners as on date alongwith complete documents to Accountant General, Haryana."

Learned counsel for the respondents states that petitioner will only be entitled for the benefit of family pension from the date of the issuance of the Notification by the Government i.e. 17.01.2013 (Annexure P-11) onwards till her death.

Learned counsel for the petitioner states that the legal heir of the petitioner, who have been impleaded in the present writ petition, will approach the respondents for completing the formalities of the releasing of the benefit, for which the petitioner was found entitled and after completion of the formalities, the respondents be directed to release the benefit in their favour in a time bound manner.

Learned counsel for the respondents states that in case the legal heir of the petitioner, namely, Raj Mal, who is the son of the petitioner, Shabo, approaches the Department and completes the formalities, the benefit of family pension, for which Shabo have been found entitled, will be released within a period of 2 months of the completing of the formalities.

Learned counsel for the petitioner states that keeping in view the undertaking given by the learned counsel for the respondents, the petitioner does not wish to press this writ petition any further and he will approach the respondents for completing the formalities for the release of the benefits.

Keeping in view the above, on the request of learned counsel for the petitioner, the present writ petition is disposed of having not been pressed.

The respondents will be bound by the undertaking given before this Court as recorded above.