

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

Order reserved on: 09.03.2021

ORIGINAL APPLICATION NO.060/323/2019

Chandigarh, this the 3rd day of May, 2021

CORAM: HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

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1. Jaspal Rai, aged about 37 years S/o Sh. Ram Chand, R/o House No. 54, Green Park Colony, Lohgarh Road, Zirakpur, District S.A.S. Nagar Mohali (husband of late Parveen Rani-Constabulary No. 1054/CP-Group 'C')-140603
2. Sanjeet aged about 31 years S/o Sh. Rajender Singh R/o House No. 129-S Modi Kunj Society, Daulat Singh Wala, Zirakpur, Tehsil Dera Bassi, District S.A.S. Mohali (Husband of late Neeti-Constabulary No. 4108/CP-Group 'C')-140603.

....APPLICANTS

(By Advocate: **Shri Sukhdev Kamboj**)

VERSUS

1. Union Territory Chandigarh through Secretary, Department of Home Affairs, U.T. Secretariat, Sector 9, Chandigarh-160009.
2. Finance Secretary, Union Territory, Chandigarh, U.T. Secretariat, Sector 9, Chandigarh-160009.
3. Director General of Police, Union Territory Chandigarh, Chandigarh Police Headquarters, Near Kendriya Sadan, Sector 9, Chandigarh-160009.

....RESPONDENTS

(By Advocate: **Shri A.L. Nanda**)

ORDER
BY HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

The present Original Application has been filed by applicants Jaspal Rai and Sanjeet seeking quashing of the order dated 29.11.2017 (Annexure A-15). The applicants have also sought issuance of directions to the respondents to release family pension and death gratuity along with interest to them as well as costs of the application.

2. The facts of the case are largely not in dispute.

3. Parveen Rani wife of Jaspal Rai (applicant No.1) and Neeti wife of Sanjeet (applicant No.2) were appointed as Constables in the Chandigarh Police in 2008 and 2010 respectively.

4. It is stated by the applicants that Parveen Rani W/o Jaspal Rai was on VIP duty on 11.9.2015. While returning to Police Lines, Sector 26, Chandigarh, she met with an accident and died next day on 12.9.2015 at PGIMER. An FIR No. 361 was also registered. Similarly, Neeti wife of Sanjeet was suffering from Hepatitis-B. She was 7 months pregnant. She succumbed to the said decease on 17.1.2016 at PGIMS, Rohtak.

5. The applicants further submit Government of India, Ministry of Personnel Public Grievances and Pension, DOP&PW, New Delhi, issued an Office Memorandum dated 5.5.2009 (Annexure A-10) granting some additional relief on death/disability of Government servants covered by the new Defined Contribution Pension System (NPS). The relevant para of the same reads as under :-

“5. Meanwhile, considering the hardship being faced by the employees appointed on or after 1.1.2004 who are discharged on invalidation/disablement and by the families of such employees who have died during service since 1.1.2004, the President is pleased to extend the following benefits to Central Civil Government Servants covered by the New Pension Scheme, on provisional basis till further orders:

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- “(IV) Death in service attributable to Government duty:
- (i) Extraordinary Family Pension computed in terms of Central Civil Services (Extraordinary Pension) Rules and Scheme for Liberalized Pensionary Awards.
 - (ii) Death gratuity computed in terms of Rule 50 of the Central Civil Services (Pension) Rules, 1972.”

6. The applicants submit that since the deceased government servants died during service, so they are entitled to Extra-Ordinary Family Pension irrespective of whether the death has taken place during service on government duty or not in terms of the Instructions dated 5.5.2009 (Annexure A-10).

7. The respondents have contested the O.A. They submit that deceased Constables were employees of Chandigarh Police, Union Territory Chandigarh. They were governed by the service conditions as laid down in Notification dated 13.1.1992, issued with the assent of the President of India. According to this Notification, the conditions of service of persons appointed to the Central Civil Services and posts in Groups A, B, C and D under the administrative control of the Administrator of Union Territory of Chandigarh shall, subject to any other provision made by the President in this behalf, be the same as the conditions of service of persons appointed to corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders as are for the time being applicable to the latter category of persons. The respondents have further submitted that in view of the Notification

of 1992 the spouses of applicants being governed by Punjab Government Rules and Instructions, Central Government Rules and instructions do not apply to them at all and as such, they cannot take benefit of Extra-Ordinary Family Pension under Rules / Instructions of Central Government. The Extra-Ordinary Family Pension is admissible under Old Pension Rules and not under the New Defined Pension Scheme which has come into force w.e.f. 1.1.2004.

8. The learned counsel for the applicants argued that the case of the applicants is fully covered by the Instructions dated 5.5.2019 (Annexure A-10) and as such, they are entitled to Extra-ordinary Family Pension.

9. On the contrary, the learned counsel for the respondents has argued that the Scheme dated 5.5.2009 (Annexure A-10) has not yet been adopted by the Government of Punjab for its own employees and that being so, it cannot be applied automatically to the U.T. employees in the face of Notification dated 13.1.1992. As such, the applicants cannot be granted benefit of Extra-Ordinary Family Pension.

10. The learned counsel for the respondents has further stated that the Chandigarh Administration had framed its own policy of Defined Pension Contribution Scheme on Central pattern on 11.6.2009. Meanwhile, Punjab Government issued Notifications dated 2.3.2004 (Annexure R-1) and dated 12.12.2006 (Annexure R-2) for its own employees, who joined service on or after 1.1.2004, bringing them under the New Defined Pension Scheme under which

there is no provision for grant of Extra-Ordinary Family Pension. The Chandigarh Administration issued a Notification dated 13.9.2019 (Annexure R-3), adopting the Notifications, Annexure R-1 and R-2. It is, thus, argued that Extra Ordinary Family Pension is applicable only to those employees who were appointed on or before 1.1.2004 – that is under Old Pension Scheme and not to employees who were/are appointed on or after 1.1.2004, being covered under the New Pension Scheme.

11. I have considered the submissions made by the learned counsel of opposing sides and have carefully gone through the pleadings on record. I have also given my thoughtful consideration to the entire matter.

12. The issue involved in this case relates to grant of Extra-Ordinary Family Pension to the applicants on death of their spouses during service. It is admitted at all hands that the conditions of service of employees of Union Territory Chandigarh are the same as the conditions of service of the persons appointed to corresponding posts in State of Punjab in accordance with “Conditions of Service of Union Territory of Chandigarh Employees Rules, 1992”. The instructions issued by the State of Punjab relating to conditions of service are ipso facto applicable to the employees of the Union Territory of Chandigarh.

13. It is observed that the Chandigarh Administration has adopted the New Pension Scheme on Punjab pattern contained in Notifications dated 2.3.2004 and dated 12.12.2006 for its own employees vide Notification dated 13.9.2019. Admittedly, under

New Pension Scheme there is no provision for grant of Extra-Ordinary Family Pension for Punjab Government employees, which was otherwise available under the Old Pension Scheme. No doubt, such benefit is permissible as per Notification dated 5.5.2009 (Annexure A-10) issued by the Central Government but the same is yet to be adopted by the State of Punjab for its own employees. That being the situation, the same cannot be applied to the employees of Union Territory Chandigarh. As such, the applicants cannot be granted any benefit.

14. It is further observed that as per Office Memorandum dated 5.5.2009 (Annexure A-10), Extra-Ordinary Family Pension has been made applicable even to the appointees under the New Pension Scheme. However, these instructions are applicable to the Central Government employees only or for State Government employees for whom these have been adopted by concerned States. Admittedly, these have not yet been adopted by the State of Punjab. This fact is admitted by the applicants in their representation dated 4.3.2018 (Annexure A-16) in which they have pleaded for application of these instructions to them also. However, unless these instructions are adopted by State of Punjab for its own employees, these cannot be made applicable to the U.T. employees in view of the provisions contained in notification dated 13.1.1992, as discussed above.

15. The argument of learned counsel for the applicants that the Notification dated 13.9.2019 for U.T. Chandigarh would apply only with effect from a prospective date only and not

retrospectively has no merit at all. Admittedly, this notification only adopts the Punjab Government Notifications dated 2.3.2004 and 12.12.2006 which have been made applicable w.e.f. 1.1.2004. Apparently, by adoption of the Scheme vide notification dated 13.9.2019, the Chandigarh Administration has not tinkered with the nature or date of effect of the New Defined Pension Scheme. It has adopted the Scheme in toto which is effective from 1.1.2004 only. Thus, the plea of the learned counsel for the applicants in that regard is also rejected.

16. In view of the above discussion, this O.A. is found to be devoid of any merit. It is dismissed accordingly.

17. M.A.No. 599/2019 for condonation of delay also stands disposed of accordingly.

18. There shall be no order as to costs.

(AJANTA DAYALAN)
MEMBER (A)

Place: Chandigarh.
Dated: May 3, 2021