

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/1165/2017

Date of decision: 27.11.2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Poonam age 37 years, wife of Ranjit Singh D/o late Sh. Surinder Pal R/o House No.642, Sector 22-A, Chandigarh (C-category).

... APPLICANT

VERSUS

1. State of U.T. Chandigarh through its Home Secretary, Fourth Floor, U.T. Secretariat, Sector-9, Chandigarh.
2. Accounts Officer, Office of Principal Accountant General (A&E), Sector-17, Chandigarh U.T.
3. Assistant Controller (F&A), Printing and Stationery Department, Sector-15, Chandigarh, U.T.
4. Deputy Commissioner, U.T. Chandigarh.

... RESPONDENTS

PRESENT: Ms. Veena Kumari, counsel for the applicant.
Sh. Arvind Moudgil, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. The applicant assails order dated 08.05.2017 (Annexure A-20) being in violation of Annexures A-4, A-5 and A-19, with a further prayer to direct the respondents to allow her family pension.
2. Facts are not in dispute.
3. Solitary issue, that arose for our consideration is whether the applicant, who is daughter of deceased employee Sh. Surinder Pal, being physically handicapped, can claim family pension or not.
4. We have heard learned counsel for the parties.

5. Learned counsel for the applicant submitted that in terms of clause 2 of para (ii) of the instructions dated 28.07.2014 (Annexure A-4) issued by State of Punjab regarding "Eligibility of daughters for grant of family pension", as adopted by Chandigarh Administration vide letter dated 09.02.2015 (Annexure A-5), the applicant is entitled to grant of family pension being a disabled person irrespective of her marriage. Since she is disabled and is not earning, therefore, she is entitled to grant of pension in terms of this circular.
6. Per contra, learned counsel for the respondents submitted that since she is a married woman and being dependent on her husband, cannot claim family pension, therefore, the respondents have rightly rejected her claim.
7. We have given our thoughtful consideration to the entire matter.
8. Letter dated 28.07.2014 (Annexure A-4) issued by Govt. of Punjab as adopted by Chandigarh Administration vide letter dated 09.02.2015 (Annexure A-5) is relevant and is hereby reproduced below:-

"No. 3/27/2013-3FPPC/1307
Government of Punjab
Department of Finance
(Finance Pension Policy and Coordination Branch)

Dated Chandigarh, the 28th July, 2014

To
All Head of Departments,
Commissioners of Divisions,
Registrar, Punjab and Haryana High Court,
District and Session Judges and
All Deputy Commissioners in the State.
Subject: Eligibility of daughters for grant of family pension.
Sir/Madam,

I am directed to refer to this Department letter No.1/7/98-IFPIII/8709 dated 16.07.1998, letter No.3/8/05-3FPPC/6944 dated 30.08.2005 and letter No.3/81/05-3FPPC/382 dated the 18th July, 2008 on the subject cited above.

2. In continuation of the above said letters, the matter has been reconsidered in view of orders dated 3.4.2014 passed by the Hon'ble High court in Civil Writ Petition No.16693 of 2013 and it has accordingly been decided further that:-

- i) the daughter, irrespective of their marriage, upto the age of 25 years and if she continues to be unmarried then even beyond 25 years shall be entitled to family pension subject to the usual condition that if she starts earning livelihood, the family pension shall be stopped.
- ii) in the case the daughter is suffering from any disability which prevents her from earning a livelihood, she will continue to get family pension even after the age of 25 years, irrespective of her marriage.

3. The above provisions are subject other conditions being fulfilled as per relevant rules for grant of family pension.

4. The relevant provisions of the Punjab CSR Vol.II shall be deemed to have been amended to the extent of the contents of this letter and a notification for the same will be issued in due course.

Yours Faithfully.

Kamlesh Arora
(Deputy Secretary Finance)"

9. Perusal of clause 2 (ii) extracted above makes it clear that in case of daughter suffering from any disability, which prevents her from earning a livelihood, she will continue to get family pension even after the age of 25 years, irrespective of her marriage. Meaning thereby, if a disabled daughter is unable to earn livelihood, then she be treated as dependent for grant of family pension irrespective of her marriage. Since in the present case, the applicant is 75% disabled and not earning her livelihood, therefore, her case is squarely covered within four corners of instructions issued by Govt. of Punjab, as adopted by Chandigarh Administration, which have been reproduced above. Thus, the view taken by the respondents in denying family pension cannot be approved, being contrary to their own instructions.
10. Accordingly, the impugned order is hereby quashed and set aside and respondents are directed to reconsider the claim of the applicant, on furnishing of fresh disability certificate as the certificate at Page-34 of the paper-book shows that it has been issued in the name of Sh.

Ranjit, whereas it has to be in the name of Poonam. Let a fresh certificate be submitted by her to the respondents in her own name and on receipt thereof, the respondents are directed to grant her family pension in terms of instructions dated 28.07.2014 (Annexure A-4) as adopted by them vide letter dated 09.02.2015 (Annexure A-5).

11. The O.A. stands disposed of in the above terms.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 28.11.2018.
Place: Chandigarh.

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