



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 31102 of 2019 (O&M)

Reserved on : 13th May, 2025
Date of Pronouncement: 21st May, 2025

State of U. T. Chandigarh and others ... Petitioners
Versus
Poonam and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE H. S. GREWAL**

Present: Mr. Abhinav Sood, Advocate, for petitioner nos. 1, 3 and 4.
Mr. H. S. Jugait, Advocate, for petitioner no. 2.

Ms. Veena Kumari, Advocate, for respondent no.1.

SANJEEV PRAKASH SHARMA, J.

The writ petition assails the order dated 27.11.2018 passed by the Central Administrative Tribunal allowing OA No. 060/1165/2017 filed by Poonam-respondent no.1 wherein she had challenged the order dated 08.05.2017 passed by petitioner no.2 rejecting her claim for family pension of her late father Surinder Pal.

2. Surinder Pal father of respondent no.1 retired on 30.06.1999 and his pension was sanctioned. He expired on 10.10.2014. His daughter, respondent No.1, applied for the grant of family pension, as she is specially-abled and the only surviving legal heir dependent on Surinder Pal, following the death of her mother on 19.08.2012. The family pension was not released. The petitioners demanded a disability certificate and legal heir certificate from respondent no.1 and also income certificate from the Sub-Divisional Magistrate. Respondent no.1 was further advised to collect the pension-



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paper from the office of respondent no.3 and submit the same after completing the formalities. Respondent no.1 submitted application alongwith documents in the office of Sub-Divisional Magistrate, UT Chandigarh who rejected the claim of the applicant/respondent no.1 vide order dated 06.11.2015 on the ground that the married daughter is not eligible for family pension as per Rule 6.17, Sub-rule (4), Clause V(b) of the Punjab Civil Service Rules, Volume-II.

3. The applicant/respondent no.1 preferred OA assailing the said order of 06.11.2015. Union Territory, Chandigarh filed reply withdrawing the order dated 06.11.2015 by communication dated 26.05.2016. It was submitted that the desired documents had not been submitted by the applicant for sanction of family pension and on account thereof her case has been rejected and if she submits the desired documents, her claim would be considered.

4. The CAT vide order dated 02.06.2016 directed the parent department to request the Deputy Commissioner for issuing income certificate and to consider the case of the applicant for family pension. The OA was treated as infructuous. It further directed to carry out the exercise within a period of six weeks.

5. Thereafter, a request was moved for issuance of income certificate. The Tehsildar (Revenue) issued the income certificate on 30.08.2016 of her husband which was found to be of ₹ 4,22,502.00 per annum considering it to be more than the prescribed minimum monthly income limit of Rs. 3,500/- plus dearness allowance, in accordance with the Punjab Civil Service Rules Volume (II), Rule 6.17 (IV), explanation (2), a



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letter was issued on 08.05.2017 holding the applicant not entitled to family pension.

6. Learned counsel for the applicant/respondent no.1 submits that the petitioners have relied before this Court the Punjab Civil Service Rules Volume (II), Rule 6.17 (IV), explanation (2) to contend that respondent no.1 is not entitled to family pension as she was dependent on her husband and not on her father, she cannot claim the relief as prayed for in her OA.

7. Challenge to the order dated 08.05.2017 was made by respondent no.1 and it was submitted that income certificate of the applicant was not required for release of family pension and further the income certificate was that of her husband and had been issued relying on old Punjab Civil Service Rules.

8. The CAT vide judgment dated 27.11.2018 set aside the order dated 08.05.2017 with direction to reconsider the claim of the applicant on furnishing of fresh disability certificate as it was objected that the disability certificate produced was in the name of her husband, who was 100% specially abled. The CAT also directed to amend the family pension in terms of instructions dated 28.07.2014.

9. Feeling aggrieved of the judgment dated 28.11.2018, the petitioners submit that as per Rule 6.17 (IV) Explanation (2) respondent no.1 would not fall in the eligibility zone for receiving family pension as the monthly income limit was higher than ₹ 3,500/- plus dearness allowance.

10. It has been further submitted that respondent no.1 has nowhere submitted her disability certificate and on that count also disability pension could not be released.



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11. We have carefully gone through the judgment and the pleadings placed before us.

12. Regarding grant of family pension, Rule 6.17 of the Punjab Civil Services Rules under the Family Pension Scheme defines 'Family' as follows:-

“(3) "Family" for purposes of this Scheme will include the following relatives of the Government employee:-

- (a) wife in the case of a male Government employee and husband in the case of a female Government employee;*
- (b) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;*
- (c) sons upto the age of twenty-five years;*
- (d) daughters upto the age of twenty-five years irrespective of their marriage but unmarried daughters shall be included in the family irrespective of their age; and*
- (e) parents who were wholly dependent on the Government employee, when he/she was alive provided the deceased employee had left behind neither a widow nor a child.*

Note 1.-(c) and (d) will include children adopted legally before retirement.

Note. 2.- Marriage after retirement shall be recognised for purposes of this Scheme.

Clause 4 of Rule 6.17 of the Punjab Civil Services Rules, Volume II, lays down the admissibility of pension as follows:-

“(4) The pension will be admissible-



- (i) (a) in the case of widow or widower up to the date of death or remarriage whichever is earlier;*
- (b) in the case of a son until he attains the age of twenty-five years or till he starts earning his livelihood, whichever is earlier; and*
- (c) to a daughter upto the age of twenty-five years irrespective of her marriage. However, an unmarried daughter shall be entitled to family pension irrespective of her age. But, family pension shall not be admissible to a daughter, if she starts earning her livelihood:*

Provided that if the son or daughter of a Government employee is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after becoming ineligible for family pension under sub-clauses (b) and (c), the family pension shall be payable to such son or daughter for life subject, to the following conditions, namely:-

- (i) if such son or daughter is one among two or more children of the Government employee, the family pension shall be initially payable to the children in the order set out in the sub-rule (3) until the last child becomes ineligible for family pension under sub-clauses (b) and (c) and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled and shall be payable to him or her as the case may be, for life;*



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- (ii) *if there are more than one such son or daughter suffering from disorder or disability of mind or they are physically crippled or disabled, the family pension shall be paid in the following order, namely:-*
- (a) *firstly to the son, and if there are more than one son, the younger of them will get the family pension only after the life time of the elder;*
 - (b) *secondly, to the daughter, and if there are more than one daughter, the younger of them will get the family pension only after the life time of the elder;*
 - (iii) *the family pension shall be paid to such son or daughter through the guardian as if he or she were a minor;*
 - iv) *before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such a nature as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Civil Surgeon setting out as far as possible, the exact mental or physical condition of the child;*
 - (v) *the person receiving the family pension as guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of a Civil Surgeon to the effect that he or she continued to suffer disorder or disability of mind or continues to be physically crippled or disabled.*

Explanations, (a) The disability which manifests itself before or after the retirement or death of the Government employee shall be taken into account for the purpose of grant of family pension under this rule.

(b) Omitted.

(c) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his/her livelihood.

(d) In such cases it shall be the duty of the guardian to furnish a certificate to the Treasury or Bank,



as the case may be, every month that (i) he or she has not started earning his/her livelihood; (ii) Omitted.

Explanation (2).-A son or a daughter shall be deemed to be earning his/her livelihood if his/her monthly income is equal to the prescribed minimum family pension of Rs. 3500 plus dearness relief thereon. Similarly, parents whose total monthly income from all sources is equal to or more than the prescribed minimum pension of Rs. 3500 plus dearness relief thereon, shall not be considered to be dependent upon the deceased Government employee and no family pension shall be admissible to them.”

13. A look at the application submitted by respondent no.1 on 26.03.2015 soon after the death of her father, reflects that the applicant/respondent no.1 has mentioned that she was specially-abled, therefore, claimed family pension on the basis of relevant rules. It was specified that at the time of retirement of her father she was not married but is now married. As per instructions dated 09.12.2015 in case the daughter is suffering from any disability which prevents her from earning livelihood, she would continue to get family pension even after the age of 25 years, irrespective of her marriage. Thus, it is apparent that daughters, irrespective of their marriage upto the age of 25 years, would be entitled to family pension and those daughters, who were suffering from any disability, would continue to get family pension even after the age of 25 years, even if she has got married.

14. Thus, from the perusal of the above it is apparent that the income of the husband is not to be counted for the purpose of grant of family pension to a daughter who is above 25 years of age. Admittedly, respondent no. 1 was merely a house wife, having no source of income.



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15. The contention that the petitioners had not submitted documents is also found to be fallacious. We have noticed that Smt. Poonam in her letter dated 26.03.2015 had enclosed disability certificate and again in her letter dated 13.08.2015 she has submitted medical certificates of both herself as well as her husband. She pointed out that she is 70% specially-abled and her husband who is a government servant is 100% specially-abled.

16. We also notice that the Accounts Officer has acted in a mechanical manner in rejecting the claim of the applicant/ respondent no.1 on the ground of earning ₹ 4,22,502/- per annum as the total income of respondent no.1, which actually is the salary drawn by her husband. Her husband's income has been added, who is 100% specially-abled, while respondent no.1 is 70% specially-abled.

17. We find that the approach adopted by the petitioners in denying family pension to a specially-abled daughter, who was unmarried at the time of her father's retirement, was against the rules. As per Clause 4 and the proviso thereto of Rule 6.17 of the Punjab Civil Services Rules, if the son or daughter of a government servant is suffering from any mental disorder or is physically crippled or disabled to the extent that he or she is unable to earn a livelihood, the family pension shall be admissible to him or her even after becoming otherwise ineligible for it, irrespective of marriage. Merely because she got married would make no difference. We further deprecate the approach adopted by the Union of India in challenging the proceedings before this Court with regard to a specially-abled person who has no source of earning and was unmarried at the time of death of his father. Further the earnings of her husband cannot be said to be the earnings of the family for



denying her family pension. She, therefore, is held to be entitled for the family pension even if she gets married as per proviso to Rule 6.17 of the Punjab Civil Services Rules. The orders passed by CAT dated 27.11.2018 is upheld.

18. The writ petition is dismissed.

19. Family pension to the applicant/ respondent no.1, if not released, shall be released with interest @ 9% on arrears. She is also held entitled for cost of ₹ 25,000/-.

20. All pending applications shall stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

21st May, 2025
vs

(H. S. GREWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No