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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-4330-2019 (O&M)

Date of Decision: 29.08.2025

SWEETY AND OTHERS

...Petitioners

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. S.K. Redhu, Advocate
for the petitioners

Mr. Suneel Ranga, DAG Haryana

Mr. Vikas Chatrath, Advocate with
Mr. Nitesh Kumar, Advocate
for the respondent No.4

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Article 226/227 of the Constitution of India are seeking setting aside of revised nomination form dated 09.01.2013 whereby petitioner No.1-Sweety and private respondent No.4-Kavita were made entitled to equal share. The petitioners are further seeking direction to official respondents to release them monthly financial assistance as per The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short "**2006 Rules**").

2. The petitioner No.1 solemnized marriage with Exemptee Head Constable namely Shri Ram on 16.01.2005. From this wedlock, three children were born. The deceased employee solemnized marriage



with mother of Kavita 06.03.1995. From this wedlock Kavita was born on 15.07.1996. The employee passed away in harness on 19.12.2017. As per Haryana Civil Service (Pension) Rule 2016 (in short “**2016 Rules**”) divorce by panchayat or social organization is not a legal divorce. The employee had solemnized marriage with petitioner No.1 during the lifetime of his first and second wife. The petitioners are claiming that they are entitled to 80% of retiral/terminal benefits of deceased employee whereas respondent No.4 is claiming that she is entitled to 50% of monthly financial assistance/family pension.

3. Mr. S.K. Redhu, Advocate submits that petitioner No.1 being wife of Shri Ram is entitled to family pension as well as other benefits like her children and respondent No.4-Kavita. Therefore, petitioners are entitled to 80% of retiral/terminal benefits whereas respondent No.4 is entitled to 20%.

4. On being asked, Mr. Vikas Chatrath, counsel for respondent No.4 concedes that respondent No.4 solemnized marriage on 17.11.2020, thus, she is not entitled to family pension/monthly financial assistance after 17.11.2020. However, he submits that respondent No.4 was entitled to equal share with children from second/third wife. There was no legal divorce, thus, petitioner No.1 is not entitled to financial benefits. The claim of petitioners No.2 to 4 cannot be disputed.

5. I have heard learned counsel for the parties and perused the record of the case.



6. The State Government has framed 2016 Rules. There are specific rules with respect to death-cum-retirement gratuity as well as family pension. Rule 8 defines different expressions used in the 2016 Rules. Rule 8(10)(A) defines expression 'Family for the purpose of death-cum-retirement gratuity and Rule 8(10)(B) defines 'family for the purpose of family pension. Rule 8(10) of 2016 Rules is reproduced as under:-

“(10) "family" means –

(A) for the purpose of death-cum-retirement gratuity means-

1(a). wife or wives (wherever permissible under personal law) including judicially separated wife or wives, in the case of male Government employee;

1(b). husband including judicially separated husband in the case of female Government employee; Provided that if she by notice in writing to the Head of office expresses her desire to exclude her husband from her family, the husband shall henceforth be deemed to be no longer a member of the employee's family in matters to which these rules relate, unless the employee subsequently cancels such desire by express notice in writing to the Head of office;

1(c). sons and daughters including legally adopted children, widowed/divorced daughters);

1(d). widow(s) of predeceased son provided not remarried, otherwise the children of predeceased son in equal shares;

2(a). Failing (1) above, brother(s) below the age of



18 years, dependent un-married/ widowed/ divorced sister (s);

2(b). Failing (1) and 2(a) above, mother, including adoptive/step mother in case of individuals whose personal law permits adoption;

2(c). Failing (1) and 2(a) & (b) above, father including adoptive/step father in case of individuals whose personal law permits adoption;

3. Failing (1) & (2) above, major brother(s) and sister(s).

Note 1.- For the purpose of this rule, wife means legally wedded wife of deceased Government employee.

Note 2.- Divorce by the Panchayat or Social Organizations shall not constitute a legal divorce.

Note 3.- Son/daughter includes children legally adopted under the Hindu Law or personal law of the Government employee residing with and wholly dependent upon his/her parent but does not include step children.

(B) for the purpose of family pension means-

(i)(a) widow (widows wherever permissible under personal law) or widower, upto the date of re-marriage or death, whichever is earlier;

(i)(b) judicial separated wife or husband of a deceased Government employee, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;

(i)(c) childless widow of a deceased Government employee who has got remarried provided her independent income from all other sources is less than or not equal to the minimum family pension prescribed by the



State Government from time to time plus dearness relief thereon. In all such cases, she shall be required to give a declaration regarding her income from all other sources to the Treasury Officer and Head of Office once in every three months.

- (ii) Failing (i) above, the eldest unmarried and dependent son(s) or daughter(s) upto the age of 25 years.*
- (iii) Failing (i) and (ii) above, the dependent eldest divorced or widowed daughter(s) upto the age of 25 years, upto the date of her marriage/re-marriage or till the date she starts earning livelihood, whichever is the earliest provided she should have been widowed or divorced before the date of expiry of eligibility of other existing family member for family pension.*
- (iv) Failing (i) to (iii) above, the dependent eldest daughter amongst unmarried/widowed/divorced daughters of above 25 years upto the date of her marriage/re-marriage or till the date she starts earning livelihood, whichever is earlier. In case of widowed/divorced daughter, she is widowed/divorced before the date of expiry of eligibility of other family member for family pension.*
- (v) Failing (i) to (iv) above, son and daughter suffering from disorder or disability of mind or physically crippled or disabled irrespective of his/her age provided they were wholly dependent upon the Government employee when he/she was alive.*
- (vi) Failing (i) to (v) above parents who were*



wholly dependent on the Government employee when he/she was alive provided their present combined income is less than the minimum family pension, prescribed from time to time, plus dearness relief thereon.

(vii) Failing (i) to (vi) above, unmarried physically disabled sibling (brother and sister) provided they were wholly dependent upon the deceased Government employee when he/she was alive.

Note 1.- *For the purpose of this rule, "widow" means legally wedded wife of deceased Government employee.*

Note 2.- *Divorce by the Panchayat or Social Organizations shall not constitute a legal divorce.*

Note 3.- *Son/daughter includes children legally adopted under the Hindu Law or personal law of the Government employee residing with and wholly dependent upon his/her parent but does not include step children.*

Note 4.- *Dependent childless widow, children or parents who is drawing family pension shall submit a certificate to the pension disbursing authority once after every six months regarding their income, if any. Guardian shall also submit certificate on behalf of eligible family member regarding his income, if any."*

7. From the perusal of above-quoted Rules, it is quite evident that widow means legally wedded wife of deceased Government employee. Divorce by panchayat or social organization does not constitute a legal divorce. In the case in hand, petitioner No.1 solemnized third marriage while first legal marriage was subsisting and second based



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upon panchayati divorce of first marriage was subsisting. As first marriage which was legal had not been dissolved at the time of marriage of petitioner No.1 with deceased employee, petitioner No.1 does not fall within definition of widow. The first and second marriage of deceased employee was dissolved by panchayati divorce. The State Government has made a specific Rule providing that divorce by panchayat or social organization shall not constitute a legal divorce. The children from second or third marriage despite subsistence of first marriage are entitled to claim death-cum-retirement gratuity as well as family pension, however, second/third wife who solemnized marriage during the subsistence of first marriage cannot claim the same.

8. The respondent No.4 solemnized marriage on 17.11.2020, thus, as per applicable Rules she became ineligible for family pension after 17.11.2020. Mr. Chatrath has expressed his inability to controvert said legal position. She is entitled to share like other children up to date of marriage. All the children are entitled to equal share. There are three children from third marriage. They all are entitled to death-cum-retirement gratuity as well as family pension. The respondent No.4 became ineligible for financial assistance after 17.11.2020, thus, after said date petitioners No.2 to 4 shall be entitled to entire family pension/financial assistance. As per 2006 Rules, the claimants are entitled to monthly financial assistance for a period of 12 years because deceased was more than 42 years at the time of his death.

9. In the wake of above discussion and findings, the petition



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stands disposed of with following directions:-

- i. The respondent No.4 shall be entitled to 25% of death-cum-gratuity as well as monthly financial assistance/family pension till 17.11.2020.
- ii. The petitioners No.2 to 4 shall be entitled to 75% of death-cum-retirement gratuity and 100% of family pension/monthly financial assistance after 17.11.2020. They shall be entitled to 75% of family pension/monthly financial assistance till 17.11.2020.
- iii. The respondent No.4 shall not be liable to refund of excess amount, if any, she has already received.

The official respondents within three months from today shall release dues of the petitioners and respondent No.4 in accordance with afore-stated directions.

10. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

29.08.2025

Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No