



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CWP-26446-2025

Date of Decision: 08.09.2025

UNION OF INDIA AND ORS

...Petitioners

Versus

SURISHTHA KUMARI AND ANR

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Ms. Garima Kudhiala Prashar, Advocate for
Mr. Chander Mohan Sharma, Senior Panel Counsel,
for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the order dated 17.07.2023 (Annexure P-4) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which, the benefit of ordinary family pension has been given to the divorced daughter, on the ground that the same is incorrect.

2. Learned counsel for the petitioners argues that on the day when the mother of respondent No.1 died, upon whom the dependency was being shown, respondent No.1 was still married and the divorce proceedings came to an end thereafter i.e. 21.12.2013 hence, the married daughter cannot be treated as a dependent, which fact has been ignored by the Tribunal while granting the relief to respondent No.1.

3. We have heard the learned counsel for the petitioners and have gone through the case file with her able assistance.

4. It may be noticed that respondent No.1 got married on



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25.10.1996 but got a customary divorce on 18.12.2006. Thereafter, the father of respondent No.1, who was getting pension, unfortunately, died on 17.07.2012 after which date the pension was transferred in the name of the mother of respondent No.1, namely, Roshni Devi. Unfortunately, Roshni Devi also died on 03.12.2012, after which respondent No.1 claimed the family pension being dependent upon Roshni Devi.

5. The benefit of family pension was not granted to her on the ground that she actually got the decree of divorce on 21.12.2013, which is after the death of her mother on 03.12.2012 hence, she cannot be treated eligible for grant of ordinary family pension.

6. It may be noticed that prior to the death of the mother as well as the father of respondent No.1, who was living with them keeping in view the matrimonial dispute. Further, a customary divorce had already been granted to her on 08.12.2006 but in order to ensure that there is no legal complexity, she also obtained decree of divorce from the competent Court of law on 21.12.2013. It is a conceded position that after the grant of the customary divorce on 08.12.2006, respondent No.1 was dependent upon the father and thereafter, on her mother hence, she becomes entitled for the grant of the family pension being a divorced daughter keeping in view the customary divorce on 08.12.2006, which is valid divorce as per the judgment of the Hon'ble Supreme Court of India in Criminal Appeal No.2905 of 2023, titled as *Sanjana Kumari vs. Vijay Kumar*, decided on 18.09.2023. Relevant para 6 of the said judgment is under:-

“6. There is no doubt that Section 29(2) of the Hindu Marriage Act, 1955 (for short, ‘the 1955 Act’) provides that, “Nothing contained in this Act shall be



deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage, whether solemnized before or after the commencement of this Act”. While construing the effect and import of the above provision, this Court has held time and again that spouses can have a valid divorce through a customary divorce deed, provided they prove that it was an established custom.”

7. Even otherwise, as there was a matrimonial dispute between respondent No.1 and her husband and she was living with her parents since the year 2006, she has to be treated as dependent upon her parents even if the ultimate divorce by the competent Court of law was granted after the death of her parents.

8. No other argument has been raised.

9. Hence, keeping in view the totality of the facts and circumstance and in the absence of any perversity being pointed out in the impugned order dated 17.07.2023 (Annexure P-4), no ground is made out for any interference by this Court.

10. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 08, 2025

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Whether speaking/reasoned	Yes
Whether reportable	No