

HARYANA STATE ELECTRICITY BOARD

v.

SURASTI DEVI

DECEMBER 4, 1995

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

Service Law :

Punjab Civil Services Rules (Vol. II)

Rules 6, 17, 8, 35—Family Pension—Entitlement—Mother of a deceased employee—Held, Family Pension Scheme being covered by Chapter VI, and mother having been excluded from persons eligible, she becomes ineligible for family pension—Application of r.8.35, in Chapter VIII, defining mother also as one of persons eligible for family pension, would be in relation to death due to wounds or other extra ordinary pensions.

The present appeal was filed by the Haryana Electricity Board against the judgment of the High Court holding that in view of Rule 8.35 of the Punjab Civil Services Rules, the respondent, mother of the deceased employee, was entitled to family pension.

Allowing the appeal of the State Government in part, this Court

HELD : 1.1. Family Pension Scheme is covered by Chapter VI of the Punjab Civil Services Rules, Vol. II. In view of the fact that the death of the employee is not covered by Chapter VIII of the Rules, coming under special circumstances, the normal enumeration in Chapter VI gets attracted. In consequence, the mother having been excluded from the persons eligible for family pension according to Chapter VI of the Rules, she becomes ineligible for family pension. [167-B, E]

1.2. It is true that Rule 8.35 of the Rules defines mother also as one of the persons eligible for family pension. But it will be in relation to the death due to *wounds* or other extra ordinary pension. The extent of the applicability of the rules in Chapter VIII has been enumerated to different persons and Rule 8.35 enumerates that a family pension will take effect from the day following the death of the Government employee or from such date as the competent authority may decide and a family pension will

A accordingly be tenable, in the case of a widow or mother until death or re-marriage whichever occurs earlier. [167-C]

B 1.3. However, mother is certainly entitled to other claims whatever the deceased would have been entitled to, viz. G.P.F., leave encashments etc. and the decree of the Courts below in that behalf is confirmed. [168-A]

Smt. Bhagwanti v. Union of India, [1989] 4 SCC 397, inapplicable .

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11937 of 1995.

C From the Judgment and Order dated 23.3.95 of the Punjab in R.S.A. No. 618/1995.

K.K. Jain, Pramod Dayal, Ms. Ayesha Khatri and Ajay K. Jain, for the Appellant.

D A.D. Sikri, L.D. Adhlakha and Ms. Pipu Adhlakha for the Respondents.

The following Order of the Court was delivered :

E Leave granted.

This appeal by special leave arises from the judgment and decree dated March 23, 1995 made in RSA No. 618/95 by the High Court of Punjab and Haryana.

F The only question is whether the mother of the deceased employee is entitled to the family pension. The High Court in its judgment had applied rule 8.35 of the Punjab Civil Services Rules and held that the mother is also a dependent. Consequently, she is entitled to the family pension. The only question, therefore, is whether Rule 8. 35 is applicable to the family pension and whether the mother is dependent. The Family Pension Scheme was brought into force by statutory rules which was amended w.e.f. May 15, 1977. It would indicate that the provisions of these rules shall apply to a regular employee of the Punjab Government in a pensionable establishment on or after 1st July, 1964 to a Punjab Government employee who was in service on June 30, 1964 and came to be governed by the provisions of the Family Pension Scheme for the Govern-

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ment employees. Rule 6.17 [3] defines "family" for the purpose of this Scheme to include the 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; [c] minor sons; and [d] unmarried daughters below the age of 21 years. Note 1 includes children adopted legally before retirement. Note 2 states that a marriage after retirement will not be recognised for purpose of this Scheme. A reading thereof would clearly indicate that the Family Pension Scheme is covered by Chapter VI of the Punjab Civil Service Rules, Vol. II. The enumerated persons are eligible to get family pension according to the family pension scheme. It is true that Rule 8.35 defines 'mother' also as one of the persons eligible for family pension. But it will be in relation to the death due to *wounds* or other extraordinary pensions. The extent of the applicability of these rules in Chapter VIII has been enumerated to different persons and Rule 8.35 [1] enumerates that a family pension will take effect from the day following the death of the Government employee or from such other date as the competent authority may decide and a family pension will ordinarily be tenable. In the case of a widow or mother until death or re-marriage, whichever occurs earlier. In other respects, we are not concerned with clauses (ii), (iii) and (iv), as the case may be. In view of the fact that the death of the respondent is not covered by Chapter VIII, coming under "special" circumstances, the normal enumeration in Chapter VI gets attracted. In consequence, the mother having been excluded from the persons eligible for family pension according to Chapter VI, she becomes ineligible for family pension.

Learned counsel for the respondent sought to rely on the judgment of this Court in *Smt. Bhagwanti v. Union of India* [(1989) 4 SCC 397]. In that case, the retired employee had married after retirement and he had also minor children from such wed-lock. Since the rules had excluded the wife who contracted the marriage after retirement and begetting the children, this Court declared such a restriction being *ultra vires* as the Government employee would be entitled to the pension in his own right which he had earned during his service with the Government. The ratio therein has no application to the facts of this case where the Rules made under Article 309 of the Constitution specify as to are the dependents under the Family Pension Scheme. The impugned decision of Punjab & Haryana High Court following the above ratio is not correct.

- A** It is stated across the Bar that the deceased is entitled to other benefits, viz., G.P.F., leave encashment etc., which were granted by the trial Court. In that behalf, the mother is certainly entitled to whatever claims the deceased would have been entitled. Therefore, the decree of the courts below in that behalf is confirmed. The State is directed to pay the entire amounts in that behalf within six months from the date of the receipt of this order.
- B**

The appeal is accordingly allowed only to the above extent. No. costs.

R.P.

Appeal allowed.