

Haryana State Electricity Board

Vs

Surasti Devi

Civil Appeal No. 11937 of 1995

(K. Ramaswamy, K. S. Paripoornan JJ)

04.12.1995

ORDER

1. Leave granted.

2. This appeal by special leave arise from the judgment and decree dated 23-3-1995 made in RSA No. 618 of 1995 by the High Court of Punjab and Haryana.

3. 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 Rule and held that the mother is also a dependant. 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. 15-5-1977. 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 1-7-1964 to a Punjab Government employee who was in service on 30-6-1964 and came to be governed by the provisions of the Family Pension Scheme for the government employees. Rule 6.17(3) defines 'family' for the purpose for the government employee. 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 Services 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 pensions 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 remarriage, whichever occurs earlier. In other respects, we are not concerned with clause (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.

4. Learned counsel for the respondent sought to rely on the judgment of this Court in Bhagwanti v.

Union of India. In that case, the retired employee had married after retirement and he had also minor children from such wedlock. 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 who are the dependents under the Family Pension Scheme. The impugned decision of the Punjab and Haryana high Court following the above ratio is not correct.

5. It is stated across the Bar that the deceased is entitled to other benefits, viz., GPF, 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.

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