

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 261 of 2023

(Mst. Ghulam Sughran versus Province of Sindh and others)

Present:

**Mr. Muhammad Iqbal Kalhoro, J.**

**Mr. Arbab Ali Hakro, J.**

Date of hearing : **12.03.2024**

Date of decision : **12.03.2024**

Mr. Mudasir Sadar Siddiqui, Advocate for petitioner.

Mr. Shahryar Imdad Awan, Assistant Advocate General Sindh along with Hazoor Bux Memon, District Accounts Officer, Sukkur.

## **ORDER**

**Muhammad Iqbal Kalhoro, J.** – Petitioner, a widow, and a sister of late Attaullah, a Police Constable, who died a natural death on 22.07.2022 due to illness, has filed this petition claiming family pension grounding her case on a circular dated 05<sup>th</sup> December, 2022, putting up a clarification regarding interpretation of Rule 4.10(2)(A)(iii), Rule 4.10(2)(B)(v),(vi) and (vii) and Rule 4.10(5)(a) and (b) of West Pakistan Civil Services Pension Rules. In clause (v) thereof, it is stated essentially that such clarification will also be applicable to widowed and divorced sister equally as to re-marriage of widowed and divorced daughter.

2. On the other hand, respondents, represented by learned AAG Sindh, have filed comments that subject rule, contemplating right of a widowed and divorced sister to pension of her late brother, was amended by the Government of Sindh vide a notification dated 07.07.2022 omitting her right to family pension of her deceased brother, and the circular refers to the cases of only such sisters whose right had accrued before the amendment.

3. We have heard the parties. In order to decide the above issue, we had directed District Accounts Officer, Sukkur to seek a clarification from the Finance Department. In compliance, a statement along with a clarification letter from the Finance Department has been placed on record, beside a dismissal order dated 11<sup>th</sup> March 2024 passed on the application of petitioner claiming family pension of her brother.

4. Rule 4.10 of West Pakistan Civil Services Pension Rules concerns with family pension. Initially, in clause (B) sub-clause (vii) thereof, a divorced sister

was entitled to the family pension of his deceased brother in the event of certain conditions. Subsequently, through amendment dated 07.07.2022, sub-clause (vii) contemplating right of a divorced sister to pension of her deceased brother was omitted. It is not disputed that brother of petitioner, who was working as Police Constable, died on 22.07.2022 after the amendment taking away her right to his pension was brought about in Rule 4.10 of *ibid* law. The circular dated 05<sup>th</sup> December, 2022 relied in defense does not take away effect of the amendment or seek to introduce a new scheme in Rule 4.10 in respect of right of a divorced / widowed sister of a deceased civil servant other than the original one stipulated therein, which, through amendment on 07.07.2022 stood already abridged.

5. The circular dated 05<sup>th</sup> December 2022 seeks to clarify a certain position regarding right of a daughter of deceased pensioner, who, if at the time of death of pensioner is a widow and/or divorcee, would be entitled to family pension of her deceased father. And in case death of her husband and pensioner / her father occurs on the same day, she would still be entitled to family pension. But if she gets divorce or becomes a widow after death of pensioner / her father, she would not be entitled to family pension. However, if death of pensioner / her father and her divorce take place on the same day, she would be entitled to transfer of family pension to her. In clause (v) of the circular, the above configuration / arrangement is said to be equally applicable to the case of a widowed and/or divorced sister. This implies that the cases in respect of right of all those widowed / divorced sisters to pension of her deceased brothers would be decided in light of above clarification that essentially means that if a sister is widow or divorcee at the time of death of her brother, she would be entitled to family pension. If this condition in the circular is read with amendment dated 07.07.2022, it would imply that it is referring to the cases of those widowed / divorced sisters who had the right as per original law and needed clarification like determination of right of a daughter who becomes widow or divorcee after the death of her father. Because, otherwise, after the amendment such right is no more available to the widowed / divorced sister to necessitate some clarification by a circular.

6. This position has been explicitly clarified in the letter dated 11<sup>th</sup> March, 2024, filed today by the District Accounts Officer, Sukkur. In view of such clarification, we do not see any merit in this petition, and accordingly **dismiss** it.

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