

S. No. 3
Regular List

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

WP(C) No.2901/2023

**Smt. Balbir Kour D/o Joginder Singh**  
**R/o Village Arina, District Budgam**

.....Petitioner(s)

Through: Mr.Mir Majid Bashir, Advocate.

V/s

- 1. State Bank of India through its Regional Manager, HR Section Srinagar.**
- 2. Branch Manager, State Bank of India, SBI Barzulla Srinagar**

... ..Respondent(s)

Through : Mr. Qazi Raashid Shamas, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

30.04.2025

1. The petitioner, through the medium of present petition, has challenged communication No.HR/2020-21/284 dated 23.04.2020, issued by Regional Manager State Bank of India (SBI) to the Branch Manager SBI, Barzulla, whereby the petitioner's request for grant of family pension has been rejected. A further direction upon the respondents to sanction and release Family Pension in favour of the petitioner has been sought.

2. It appears from the pleadings of the parties that father of the petitioner, Shri Joginder Singh, who was a retired Army personnel, was re-employed by the Respondent Bank as a Guard. He joined the service of the Respondent Bank as Guard on 04.08.1971 and attained the age of superannuation on 31.03.1994, whereafter the Respondent Bank sanctioned pension in his favour. It also appears that Shri Joginder Singh passed away on 16.06.2010 and thereafter the petitioner, who claims to be suffering from 100% permanent disability, applied for Family Pension to the Respondent Bank. It is pertinent to mention here that wife of Shri Joginder Singh, who happened to be mother of the petitioner, pre-deceased Shri Joginder Singh and she was not alive at the time when Shri Joginder Singh died.

3. The petitioner has based her claim of Family Pension on the ground that she is suffering from congenital incurable disease, as a result of which she had to undergo below knee amputation surgery on 19.11.2009. It is being submitted by the petitioner that the Army Authorities have already sanctioned and released Family Pension in her favour on the ground that she is a disabled person and they have even recommended to the Respondent Bank that the petitioner deserves to be granted dual pension on account of her severe disability. This has

been done vide Communication dated 19.06.2013 addressed by Zila Sainik Welfare Officer to the Respondent Bank.

4. It appears that the petitioner filed writ petition bearing SWP No.634 of 2011, before this Court. The said writ petition came to be disposed of by this Court in terms of order dated 12.12.2011, whereby both the Army Authorities and the Respondent Bank were directed to take a decision with regard to payment of Family Pension to the petitioner. It is being submitted that while the Army Authorities sanctioned Family Pension in favour of the petitioner and recommended payment of dual Family Pension in her favour pursuant to the directions of this Court, the Respondent Bank has issued the impugned communication dated 23.04.2020, thereby rejecting the claim of the petitioner.
5. The petitioner has challenged impugned action of the Respondent Bank on the ground that the same is arbitrary and violative of Articles 14, 16 and 21 of Constitution of India. It has been contended that the respondents have wrongly appreciated the rule position, thereby excluding the petitioner from the eligibility of Family Pension. It is being claimed that the petitioner has been rendered 100% disabled as a result of the disease with which she has been suffering since her birth. It has been submitted that due to this disease auto amputation

of both hands of her took place, whereafter amputation of below knee surgery was performed upon the petitioner in order to prevent further damage to her body organs. It is being claimed that the petitioner having regard to her precarious physical condition, is in need of money to survive, but the Respondent Bank by issuing impugned communication has acted in an unreasonable manner and their action has caused miscarriage of justice.

6. The respondent Bank in its objections to the writ petition has submitted that father of the petitioner was appointed as Security Guard in the year 1971 and he attained age of superannuation on 31.03.1994. The father of the petitioner had served the Bank for 22 years one month and twenty seven days and was receiving the pension from pension fund of the Bank till his demise in the year 2010.
7. It has been submitted that the medical disability record produced by the petitioner, has been issued in the year 2011 and even if it is assumed that below knee amputation of the petitioner has taken place in the year 2009, still then it cannot be stated that the said disability manifested in the petitioner before retirement of her deceased father. It has been further submitted that the name of the petitioner does not figure as beneficiary or family in the records of the Bank and because

she is more than 25 years of age, Family Pension cannot be paid to her. It has been also submitted that the petitioner has approached the Court belatedly as her claim regarding the Family Pension was rejected long back and she filed the writ petition after 08 long years. According to the Respondent Bank, because the disability of petitioner has manifested after the retirement of her father and her name has not been mentioned in PPO, she is not eligible to get Family Pension.

8. I have heard learned counsel for the parties and perused the record of the case.
9. The Respondent Bank has rejected the claim of the petitioner for grant of Family Pension on the strength of instructions relating to eligibility of Family Pension issued by the Respondent Bank. The relevant clauses which govern the eligibility for family pension are reproduced as under:-

**ELIGIBILITY:-**

- i) Spouse of the employee, if the member dies during service after putting in a minimum of one year pensionable service.
- ii) Eligible only if the deceased employee was eligible for pension. If the employee was not eligible/deprived of pension benefits, then his family will not get benefits under this scheme.
- iii) Family pension is payable:-
  - (a) To widow/widower up to her/his death or remarriage whichever is earlier.
  - (b) Failing (a) above, to the eldest surviving children in order of their birth up to the age of 25 years or he/she is gainfully employed whichever is earlier.
  - (c) In case the beneficiary is an unmarried daughter, until she attains 25 years of age or is married or is gainfully employed whichever occurs first.

(d) This process will continue till the last beneficiary attains the age of 25 years or is gainfully employed or married in case of daughter, whichever is earlier.

(e) Fresh sanction should be obtained in respect of every beneficiary as and when there is change of beneficiary as above, where simultaneous sanction of family pension was not obtained along with sanction of pension as per new instructions.

(f) In case of twin children, family pension will be payable to both in the proportion of 50:50.

(g) Family pension will be payable even if the widow/widower is working in the Bank on compassionate grounds.

(h) If the pensioner leaves two legally wedded wives, the family pension is payable to both the wives in equal proportions.

(i) The family pension shall be payable to such son or daughter for life if he/she is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 25 years. Provided that only that disability, which manifests itself in the child before retirement or death of the employee while in service, shall be taken into account.

(emphasis supplied)

10. From a perusal of the afore quoted instructions, it is clear that in the first instance it is the spouse of the employee who is eligible to get Family Pension. Upon death of the employee his/her spouse becomes entitled to pension, provided the employee was getting the pension benefit under the scheme of the Bank. In case spouse of the employee is not surviving, then the Family Pension has to be given to the eldest surviving child up to the age of 25 years or till he/she is gainfully employed, whichever is earlier.

11. As per clause (i) quoted above, an exception has been created in the case of disabled son or daughter, inasmuch as such son or daughter is eligible for Family Pension for life

even after attaining the age of 25 years. The condition for sanctioning pension in favour of a disabled son or daughter is that disability must have manifested itself in the child before retirement or death of the employee while in service, meaning thereby, that if son or daughter of the employee, has incurred disability so as to render him/her unable to earn a living after the retirement of the said employee or after his death during his service, such disabled son or daughter would not be eligible to get Family Pension.

12. With the aforesaid rule position in mind, let us now advert to the facts of the present case. It is not in dispute that father of the petitioner was getting pension from the Respondent Bank till his death in the year 2010. It is also not in dispute that wife of the employee, who happened to be mother of the petitioner, had died before the death of Shri Joginder Singh, the father of the petitioner. Therefore, even though her name figured in the PPO in the list of family members to whom family pension is payable, yet because she had died prior to the death of her husband, as such she could not have been granted the Family Pension. In her absence it is the petitioner whose case was required to be considered for Family Pension in the light of the instructions contained in clause (i) quoted above.

13. The petitioner has placed on record disability certificate issued on 24.03.2011 issued by the Medical Board, according to which she is suffering from 100% disability in relation to her all four limbs. The certificate further reflects that the petitioner is suffering disability due to congenital disease, meaning thereby that disability of petitioner is the result of a disease which the petitioner was suffering right from her birth. It is not in dispute that the petitioner is unemployed and is not capable of earning. It is also not in dispute that she has crossed the age of 25 years long back.

14. In the face of aforesaid established facts, the question which falls for determination is, whether the petitioner is eligible to Family Pension in the light of instructions contained in clause (i) quoted above. According to learned counsel for the respondent Bank, if the disability has manifested itself after the retirement or death of the employee, the disabled son or daughter is not eligible to family pension. It has been contended that it is only in the year 2009 that the petitioner had to undergo below knee amputation surgery and till that time she was not disabled, therefore, she cannot claim Family Pension, because disability was incurred by her after the retirement of her father Shri Joginder Singh.



15. The argument raised by learned counsel for the Respondent Bank appears to be attractive at first blush but on a careful analysis of clause (i) of the Pension Instructions quoted above, the argument appears to be without any substance. Proviso to the said clause lays down that the disability should have manifested itself in the child before the retirement or death of the employee. In the case of the petitioner, admittedly, she was suffering from a congenital disease right from her birth which had taken place in the year 1966. In the disability certificate it has been clearly indicated that the cause of her disability was congenital disease. It has been pleaded by the petitioner that even prior to the year 2009, when she had to undergo surgery for below knee amputation, she had suffered auto amputation of both of her hands due to the congenital disease with which she was suffering. The fact that the petitioner was suffering from incurable congenital disease which led to her disability clearly goes on to show that the disability had manifested itself in the petitioner right from the day of her birth. Thus she had incurred disability even when her father was very much in service.

16. The objective of granting pension to a disabled person is to ensure social security and financial assistance to those who are unable to sustain themselves. Grant of pension to disabled

person aims to promote equity, inclusion and social welfare by ensuring a safety net for individuals with disabilities. The provisions governing the grant of family pension to a disabled person cannot be interpreted in a narrow sense, so as to exclude genuine claims. Such provisions have to be interpreted liberally so that the benefit of this essential security measure is extended to all deserving and eligible persons.

17. Keeping the aforesaid objective in view, the expression “**manifests**” appearing in clause (i) of the Pension Instructions has to be interpreted liberally so as to advance the aim and object of scheme providing for family pension to a disabled person. Thus by giving wider meaning to the expression “**manifests**”, cases of even those disabled persons who incur disability on account of a congenital disease, even if the effects of such a disease become pronounced after the passage of some time, would be covered under the family pension scheme of the respondent Bank. Merely because the effects of the congenital disease were less pronounced during the initial years of a disabled person, would not disentitle such person to get the family pension if he/she is otherwise entitled to it. The narrow interpretation of proviso to clause (i) of the instructions given by the Respondent Bank has defeated the objective of the Scheme.

18. When case of the petitioner is considered in light of the interpretation given by this Court to expression “**manifests**”, appearing in proviso to clause (i) of the Pension Instructions, it leaves no manner of doubt in holding that the petitioner, who is suffering from a congenital disease right from her birth that has led to her 100% disability, is eligible to Family Pension. The impugned communication dated 23.04.2020 issued by the Respondent Bank, whereby claim of the petitioner stands rejected, is, therefore, not sustainable in law and is liable to be quashed.

19. So far as the ground of delay and laches projected by the Respondent Bank is concerned, the same is also without any merit. Father of the petitioner died in the year 2010 and immediately thereafter, the petitioner approached the Respondent Bank for grant of Family Pension and when Respondent Bank did not accede to her request, she filed SWP No.634 of 2011. This Court vide order dated 12.12.2011 directed the respondent Bank to take a decision in the matter. The decision was taken by the Respondent Bank only on 23.04.2020, on which date the impugned communication rejecting the claim of the petitioner was issued. Thereafter, the petitioner filed the present writ petition in the year 2023.

20. While considering the justification for delay in filing the writ petition, we have to take into account the fact that the petitioner is a crippled person who depends completely upon others. In such circumstances it would not have been possible for the petitioner to consult the lawyer to file writ petition immediately after issuance of impugned communication dated 23.04.2020. Even otherwise there is nothing on record to show as to when the impugned decision was conveyed to the petitioner. In these circumstances, it cannot be stated that there has been any undue delay on the part of petitioner in approaching this Court. The contention of the respondents is, therefore, without any merit.

21. For what has been discussed hereinabove, the petition is **allowed** and the impugned communication dated 23.04.2020 is quashed. The respondents are directed to process the Family Pension case of the petitioner and sanction the same in her favour as admissible under the rules within a period of two months from the date a copy of this judgment is provided to the respondents.

(SANJAY DHAR)  
JUDGE

SRINAGAR  
30.04.2025  
Sarveeda Nissar

Whether the order is speaking: Yes/No  
Whether the order is reportable: Yes/No