

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR.

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ORDER

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**S.B. Civil Writ Petition No.583/2006**

**Smt. Jatan Kanwar.**

**vs.**

**Jodhpur Vidhyut Vitran Nigam Ltd. & Ors.**

Date of Order :: 27.11.2014.

**HON'BLE MR. JUSTICE SANDEEP MEHTA**

Mr.VK Mathur, for the petitioner.

Mr.Ravi Bhansali, for the respondents.

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Heard learned counsel for the parties.

The instant writ petition is preferred by the petitioner seeking a direction for grant of family pension upon superannuation of her husband late Shri Devraj Mathur, who was employed in Rajasthan State Electricity Board (RSEB), as it then was.

The respondents have filed a return to the writ petition stating that when the scheme for grant of family pension came into force, the employee was not alive and obviously, he could not have opted for the same. The petitioner admittedly has received the gratuity and the amount of

C.P.F., which accrued pursuant to the death of her husband. When the petitioner's husband expired, at that time, there was no provision for family pension in the departmental Rules. As such, even if the scheme was introduced at a later date, the petitioner could not have opted for the same.

The Hon'ble Supreme Court in the case of **State of Rajasthan vs. Rajasthan Pensioner Samaj** reported in **AIR 1991 SC 1743**, held that right to opt for pension scheme was right of employees and such right cannot be either inherited or exercised by widows of the retired employees. In view of the admitted fact that at the time of death of the petitioner's husband, there was no pension scheme available for the employees of RSEB, the petitioner cannot be granted family pension.

In view of the above, this writ petition, being devoid of any merit, is hereby dismissed.

No order as to costs.

**(SANDEEP MEHTA), J.**

S.Phophaliya