

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No. 1945 of 2023

Rukmani Devi

.....Petitioner

Versus

Union of India and another

.....Respondents

Present:-

Mr. M.S. Bhandari, learned counsel for the petitioner.

Mr. Rajesh Sharma, learned counsel for respondent no.1/Union of India.

Mr. Sushil Vashistha, learned Standing Counsel and Mr. Jai Vardhan Kandpal, learned Brief Holder (through video conferencing) for the State.

Mr. Ashish Joshi, learned counsel for respondent no.3, through video conferencing.

Hon'ble Pankaj Purohit, J. (Oral)

By means of this writ petitioner, the petitioner has sought indulgence of this Court for a direction to the respondents to grant the Family Pension/Dependent Pension of the petitioner, on account of her being spouse of the "Freedom Fighter/Swatantrata Sangram Senani" namely Late Bakhtawar Singh alongwith arrears w.e.f., 01.05.2021, the date of death of the Late Bakhtawar Singh-Freedom Fighter, within a stipulated time period along with interest @ 12 % per annum from that date till the actual payment is made.

2. Facts of the case shorn-off unnecessary details are that husband of the petitioner was a Freedom Fighter, who was issued pension of Freedom Fighter through P.P.O No.CGovt./POL/14466 dated 15.08.1972. After revision of the pension a subsequent P.P.O was issued to the husband of the petitioner on 13.08.2015 and his pension was revised to the tune of ₹26,000/- per month by the Central Government, in addition to the Freedom Fighter Pension sanctioned by the State Government i.e., ₹21,000/-.

3. The husband of the petitioner expired on 01.05.2021 leaving behind the petitioner. The petitioner moved an application for

the Freedom Fighter Dependent Pension to be sanctioned and released in her favour, but the same was not sanctioned and paid to her. The petitioner made several correspondences with the respondent-Authorities and by one pretext and the other the respondent-Authorities delayed the payment of the Freedom Fighter Dependent Pension of the petitioner. It is also a fact that the respondent-State has sanctioned and released the Freedom Fighter Dependent Pension in favour of the petitioner of its share vide order dated 28.12.2021 and the amount which was to be paid to the petitioner by the State Government was ₹21,000/- per month, but despite this the Central Government has not come up with the sanction of the share of the Central Government of the Freedom Fighter Dependent Pension. This resulted into filing of the present petition.

4. During pendency of the present writ petition, learned counsel for respondent no.1 informed that now the Freedom Fighter Dependent Pension has been sanctioned in favour of the petitioner vide order dated 20.12.2023 and an amount of ₹26,000/- is now to be paid by respondent no.1 w.e.f., the date of the application dated 15.12.2021 moved by the petitioner for the family pension.

5. Learned counsel for the petitioner submitted that payment of the Freedom Fighter Dependent Pension from the date of making of the application is highly arbitrary and illegal for the reason that the right to receive the Freedom Fighter Dependent Pension accrues in favour of the petitioner with the death of her husband. He further submitted that the State Government has sanctioned its share next day of death of the said Freedom Fighter i.e., 02.05.2021.

6. Attention of this Court was drawn by learned counsel for the petitioner to the policy which has been issued by respondent no.1- Union of India (Annexure no.1), wherein it has been categorically stated after the death of Freedom Fighter, Pensioner, Eligible Dependent for family pension are Spouse/ Unmarried and

Unemployed Daughters/Mother or Father. With this stipulation there in the policy, learned counsel for the petitioner submits that one person can be entitled to the Freedom Fighter Dependent Pension, immediately, after death of the Freedom Fighter.

7. *Per-contra*, learned counsel for the Union of India has also drawn attention of this Court to the same policy wherein, it has been stated that the person who wants Freedom Fighter Dependent Pension after death of the original pensioner shall have to apply afresh with the proof of the pensioner and their application will be considered in terms of the pension scheme.

8. It is further submitted by learned counsel for the Union of India that it is only after the application is made; the petitioner would become entitled for the said Freedom Fighter Dependent Pension.

9. Having considered the rival contention of the parties and having gone through the facts of the case as well as policy annexed by the petitioner (Annexure no.1), there is no manner of doubt that a person would be entitled to get the Freedom Fighter Dependent Pension, immediately, on the very next date of death of the pensioner and there is no point in saying that the Freedom Fighter Dependent Pension would be admissible or sanctioned to the petitioner from the date the application is made by the petitioner. My this view is further fortified with the fact that the State Government has readily sanctioned the Freedom Fighter Dependent Pension to the petitioner w.e.f., the next day of the death of the pensioner-Late Late Bakhtawar Singh and therefore it is a long drawn inference by the Union of India for grant of Freedom Fighter Dependent Pension to the petitioner w.e.f, the date of making of her application for family pension.

10. I do not find any substance in the contention raised by learned counsel for respondent no.1 and accordingly the same is rejected. The order of respondent no.1 for sanction of the Freedom

Fighter Dependent Pension in favour of the petitioner from the date of making of the application is highly arbitrary, illegal and against the conscience of a prudent person. Accordingly the said order dated 20.12.2023 is taken on record and quashed to the extent where by the Freedom Fighter Dependent Pension is made payable from the date of making the application by the petitioner and the same is modified to the extent that the petitioner shall be entitled to get the Freedom Fighter Dependent Pension, on the next day of death of her husband i.e., 02.05.2021. Accordingly the writ petition is allowed.

11. Needless to say that the petitioner is also entitled to get the arrears of the Freedom Fighter Dependent Pension along with interest at the rate of 6% per annum.

12. No order as to costs.

(Pankaj Purohit, J.)
28.12.2023

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