IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP No.13695 of 2015
Date of Decision:- 19.09.2016

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Krishna Devi @ Kishni
….. Petitioner

Vs.

State of Haryana and others
….. Respondents

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
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Present: - Mr.Ravinder Malik (Ravi), Advocate,
for the petitioner.

Ms.Gaganpreet Kaur, AAG, Haryana.

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RAKESH KUMAR JAIN, J.

The petitioner is the resident of village Bargat Shahpur, Tehsil Shahbad, District Kurukshetra and is a widow of late Singh Ram s/o Tota Ram, who after his retirement from the Royal Indian Army, Regiment No.F/2894, died on 29.7.2008. The petitioner has challenged the orders dated 21.1.2015 passed by respondent No.3 and 5.6.2015 passed by respondent No.2 regarding termination of her old age pension and recovery of an amount of ₹63982/- (₹44,650 + 12% interest i.e. ₹19,332/-). The Government of Haryana issued a notification on 20.9.2006, amending the Rules of Old Age Pension Scheme, 1991, which were notified on 13.8.1992, by the Rules called "Old Age Allowance Scheme, 2005, Rules 2005" [for short 'the Scheme of 2005], which came into operation from 29.11.2005. The petitioner was getting ₹300/- per month as old age pension under the Scheme of 2005 as she was more than 60 years old and a domicile of

Haryana. A complaint was made by one Satish Kumar that the petitioner is drawing two pensions, one under the Scheme of 2005 and the other on account of death of her husband by misrepresenting herself with two names, namely, Krishna Devi @ Kishni and Bulli Devi though both are the same. According to the respondents, the petitioner issued a notice on 1.1.2015 requiring her to appear before the District Social Welfare Officer, Kurukshetra on 6.1.2015 along with ration card, voter card, aadhar card and documents relating to pension of her husband. It was found from the enquiry that she has been receiving the government pension on account of death of her husband apart from the receiving old age pension under the Scheme of 2005 though she could have asked only for one pension as per the Government instructions and thus it was found that she has illegally obtained pension amounting to ₹44,650/- for the period 4/2008 to 11/2014 by concealing the facts and hence, she has been asked to return the said amount along with interest. The petitioner filed an appeal against that order and the notice etc., which has been dismissed.

During the course of hearing, counsel for the petitioner was specifically asked as to whether the petitioner has been getting pension both under the Scheme of 2005 as well as on account of death of her husband to which he did not deny and has argued that the petitioner was not aware of the fact that she cannot claim two pensions.

On the other hand, learned counsel for the respondents has submitted that the purpose of floating the Scheme of 2005 was to provide Social Security to old persons, who are unable to sustain themselves from their own sources and are in need of financial assistance from the State and the Scheme is aimed at to ensure benefit of Old Age Allowance to the needy and in particular the poorer sections of society, viz agricultural labourers, rural artisans, SC/BC, Small/Marginal Farmers. It is also submitted that the husband of the petitioner died on 29.7.2008 thereafter, she was not entitled for the pension under the Scheme of 2005 as she had started getting family pension. It is thus submitted that the petitioner was not entitled to the pension from that period onwards till she has been served with the notice and the old age pension which was earlier given to her was stopped.

I have heard learned counsel for the parties and perused the record.

There is no dispute that the Scheme of 2005 was floated by the respondents for the laudable object to provide Social Security to old persons, who are unable to sustain themselves from their own sources. It was also to ensure that the benefit of Old Age Allowance goes to the needy and in particular the poorer sections. The 'eligibility criteria' laid down in Clause 3 of the Scheme of 2005, 'Verification of Pensioners' provided in Clause 8 and 'Stoppage of Pension' provided in Clause 9 of the Scheme of 2005, relevant for this case are reproduced as under: -

"3. Eligibility Criteria:

i) A person is eligible for the grant of Old Age Allowance who –

a. is aged 60 years or more;

b. is a domicile of Haryana State; and

c. is not receiving pension of ₹300/- p.m. or more

ii) a) If both husband and wife qualify for allowance both of them will be entitled to receive allowance separately;

b) if an ex-servicemen is getting military pension of more than ₹300/- p.m. his wife will be entitled fro grant of Old Age Allowance if she is otherwise eligible.

iii) The following persons shall be excluded for grant of Old Age Allowance:-

a) those who themselves or their children are sales tax assesses.

b) Those whose children are Class I/Class II Gazetted Officers in the service of the Government or hold an equivalent post in a Public Sector Undertaking or are employed under a private employer and draw a salary equivalent to that of a Class-II Gazetted Officer (`4000/- p.m. minimum)

c) Those whose children are professional i.e. (a) Doctor (b) Lawyer (c) Chartered Accountant (d) Income Tax Consultants (e) Financial or Management Consultant (f)

Dental Surgeon, and (g) Engineer or Architect (h) Contractor etc. (This is only illustrative and all such professions of a similar nature may also be included);

d) Those whose children are Income Tax Assesses.

e) Those who themselves/their children are ex-sitting members of Parliament/M.L.As/Chairman of Boards/Corporation.

3(a) The amount of allowance to be paid to a person per month shall be decided by State Government from time to time."

*"**8. Verification of Pensioners: -** (i) During its visit to the village/ward for the purpose of verification of fresh applicants Committee for Scrutiny may also investigate if any of the pensioner is no longer eligible for allowance. For this purpose, all the existing pensioners will be required to present themselves before the Committee. Allowance to those persons who fail to present themselves before the*

Committee will become liable for suspension.

ii) In those cases where Committee comes to a definite conclusion that a beneficiary is no longer eligible for allowance, the Committee will terminate the allowance of such beneficiaries and will send intimation to District Social Welfare Officer of such termination for further necessary action. However, the committee shall exercise reasonable judgment to decide these cases. The District Social Welfare Officer shall intimate the fact of termination of allowance to the pensioner. An appeal shall lie, within 3 months from the intimation of such termination to the District Level Committee against such termination of allowance. The decision of the District Level Committee shall be final and will not be subjected to any further investigation.

iii) In those cases where the beneficiary has not presented himself/her self before the Committee and the Committee suspects the eligibility of a *beneficiary, the Committee may direct District Social Welfare Officer to discontinue further disbursement of allowance to such pensioners District Social Welfare Officer shall issue a notice to the beneficiary asking him/her to show why his/her allowance should not be terminated. If the pensioner fails to satisfy the District Social Welfare Officer regarding his/her continued eligibility of allowance, the allowance shall be terminated by the District Social Welfare Officer. An appeal shall lie, within 3 months from the intimation of such termination to the District level committee against such termination of allowance. Otherwise the allowance shall be resumed after the pensioner satisfies the District Social Welfare Officer about his/her eligibility for allowance."*

*"**9. Stoppage of Pension:-** (i) allowance shall be sanctioned for the entire life of the applicant. However, the District Social Welfare Officer shall have the right to stop payment of*

allowance, if at any stage it is found that it was sanctioned on a mistaken ground or false information or the condition for which the allowance was granted no longer exist.

ii) Allowance shall case to be payable on the death of a beneficiary and if the grantee dies before receiving allowance for a particular period, the same shall lapse.

iii) In case allowance is sanctioned on the basis of wrong information given by the applicant in his/her application form, the amount given would be recovered as arrears of land revenue. In case of deliberate wrong information the pensioner, shall be liable for prosecution.

iv) Allowance under this scheme shall not be liable to attachment under any court of law."

From the bare reading of the aforesaid provisions, it is apparent that the old age pension is allowed to a person, who is more than 60 years of age, a domicile of State of Haryana and is not receiving pension of ₹300/- per month or more. Both the husband and wife, if qualify for allowance, may be held entitled separately, in which it is provided that if ex-servicemen is getting military pension of more than ₹300/- per month then his wife would be entitled for grant of Old Age Allowance if she is otherwise eligible. This provision remains operational during the lifetime of the ex-servicemen but once he dies, his pension also devolves upon his wife/widow and in that case she would not be entitled to the grant of Old Age Pension because no person can be granted pension from two sources. There is no dispute on the facts in this case as the petitioner has been getting the pension after the death of her husband and also taking the pension under the Scheme of 2005 without bringing it to the notice of the authorities concerned till a complaint is made against her that she has been cheating the Government by misrepresenting as two persons, namely, Krishna Devi @ Kishni and Bulli Devi though both are the one and the same person. It is provided in Clause 8 of the Scheme of 2005 as to how the verification of the pensioners is to be carried out which include the investigation about the pensioner, who is no more eligible for the allowance and Clause 9 of the Scheme of 2005 empowers the authorities to stop the payment of allowance if at any stage it is found that it was sanctioned on a mistaken ground or false information or the condition for which the allowance was granted no longer exists.

Keeping in view the fact that the aim of the Scheme of 2005 was to provide social security to old persons, who are unable to sustain themselves from their own sources and are in need of financial assistance from the State in particular the poorer sections of Society, it would not be in the interest of justice to allow anybody to take two pensions to take away the right of the other needy person as the source from which the pension is to be distributed is also limited.

Thus, in view of the above, I do not find any reason to interfere in this petition and the same is hereby dismissed. However, the only respite is given to the petitioner is that the respondents/concerned authority shall allow the petitioner to pay the amount, sought to be recovered, by way of easy installment, which may be fixed by the concerned authority.

(RAKESH KUMAR JAIN)
JUDGE

19.09.2016
Vivek

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*