

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1557 of 2014
Date of decision: 08.09.2016

Surjit Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.L. Chander Shekhar, Advocate
for the petitioner.

Mr. B.M. Vinayak, DAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the alleged inaction on the part of respondent authorities, petitioner has approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus.

Notice of motion was issued and in compliance thereof, reply by way of affidavit dated 10.04.2015 of Deputy Commissioner, Amritsar, was filed on behalf of respondents.

Learned counsel for the petitioner places strong reliance on the communication dated 02.01.2007 (Annexure P-2) written by the Senior Superintendent of Police, Majitha to Sub Divisional Magistrate, Ajnala, to contend that late Sardar Santokh Singh-husband of the petitioner, suffered injuries at the hands of the terrorists in an incident, which took place during the night of 05.03.1988. FIR No.33 dated 06.03.1988 under Sections 307, 395, 511

IPC and 25/54/59 of Arms Act read with Section 3/4 of T.D. Act, was registered at Police Station Lopoke. It was further specifically observed by the Senior Superintendent of Police that Sardar Santokh Singh succumbed to the injuries caused to him by the terrorists, however, on 06.03.1990. Late Sardar Santokh Singh, during his lifetime, was given bravery award of Rs.10,000/- on 16.06.1988, by Deputy Commissioner, Amritsar. Finally, Senior Superintendent of Police recommended the case, for financial help to the petitioner.

However, the abovesaid contentions raised on behalf of the petitioner were sought to be refuted by learned counsel for the State, while referring to a speaking order dated 19.01.2007, which was passed by Deputy Commissioner, Amritsar in compliance of the orders dated 01.09.2006 passed by this Court in CWP No.13924 of 2006 (Surjit Kaur Vs. State of Punjab and another), filed by the present petitioner herself. Learned counsel for the State seeks dismissal of the present writ petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that the order denying the benefit of the welfare scheme to the petitioner has been found patently illegal and the same cannot be sustained. It is so said because the Deputy Commissioner has not even considered the abovesaid material facts recorded in the communication dated 02.01.2007 (Annexure P-2), issued by Senior Superintendent of Police.

There was hardly any time gap between 02.01.2007, when Annexure P-2 was issued, and 19.01.2007 when the speaking order, at page 76 of the paper book, was passed by the Deputy Commissioner, Amritsar, illegally

declining the genuine claim of the petitioner. Having said that, this Court feels no hesitation to conclude that since the Deputy Commissioner, Amritsar proceeded on a wholly misconceived and perverse approach, without even taking into consideration the strong recommendations made by the Senior Superintendent of Police, said order cannot be sustained. In view of what has been discussed hereinabove, petitioner has been found and is declared entitled for the financial help as per the different policies issued by the State Government of Punjab, including the policy Annexure P-3.

Under the abovesaid undisputed fact situation obtaining on the record of the case, it becomes crystal clear that the authorities of the respondent State have treated the petitioner, widow of the victim of terrorists attack, in most arbitrary manner. Petitioner was entitled for much better treatment at the hands of the respondent authorities who were expected to deal with the case of the petitioner gracefully and sympathetically. It is also a matter of record that late Sardar Santokh Singh was a true patriot who had been helping the State agencies to curb the menace of terrorism in the respondent State. This was the reason that he was given bravery award of Rs.10,000/- on 16.06.1988 by none else but the Deputy Commissioner, Amritsar.

This strong circumstance speaks volumes in favour of the petitioner. The citizen who laid his life for the welfare of his fellow citizens, as he was made the target by the terrorists because he developed an enmity with the terrorists acting against them with a view to help the State agencies, his widow, as petitioner herein, was entitled for a special award including the minimum financial help, at the hands of the State Government. However, since the respondent authorities proceeded on an arbitrary approach, forcing the

petitioner to file the present writ petition for pursuing her genuine claim, her writ petition deserves to be allowed with costs.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the order dated 19.01.2007 passed by the Deputy Commissioner, Amritsar, at Annexure R-2, declining the claim of the petitioner, cannot be sustained and the same is hereby set aside. The writ petition deserves to be accepted with costs.

Accordingly, the petitioner is declared entitled to receive the financial help, as per the different policies issued by the respondent State, including Annexures P-3 and P-5 to P-9. Since the genuine and justified claim of the petitioner was illegally denied for a very long period, forcing her to approach this Court twice, she will be entitled for the arrears of subsistence allowance along with interest @9% per annum from the dates different amounts became due under different policies, till the date of actual payment. Consequently, the respondent authorities are directed to release the financial help to the petitioner in the form of subsistence allowance, for which she has been found entitled in law, without any further loss of time and in any case within a period of two months from the date of receipt of certified copy of this order.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands allowed with costs which are quantified at Rs.30,000/-, which shall be paid by the respondent authorities to the petitioner, along with the arrears on account of financial help. Any lessor amount towards

costs would be an insult to the petitioner, who, in fact, deserves much more.

Allowed in the abovesaid terms.

08.09.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No