

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CWP No.12774 of 2014  
Date of decision : 11.01.2017

Yadvinder Kaur (since deceased) through her LRs

...Petitioner

Versus

Union of India and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. Rajeev Anand, Advocate for the petitioner.

Mr. Parminder Singh Kanwar, Sr. Panel Counsel for UOI.

Mr. Yatinder Sharma, Addl, A.G. Punjab.

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**AMIT RAWAL, J. (Oral)**

Yadvinder Kaur (since deceased) has filed the present writ petition, who unfortunately during the pendency of the writ petition, had died and is being represented by her LRs.

The LRs of the petitioner-Yadvinder Kaur (since deceased) have invoked the extra ordinary writ jurisdiction of this Court for seeking the direction to the respondents to process and grant the freedom fighter Pension under the Swatantrata Sainik Samman Pension Scheme under the State and Central Scheme on the premise that petitioner (since deceased) had undergone imprisonment for a period of time from 20.10.1942 to 19.10.1943 for having been arrested for participation in Quit India Movement and remained imprisoned at Central Jail, Lahore (Pakistan) by

the order of DC, Shekhupura (Pakistan).

Learned counsel for the petitioner submits that as per the pension scheme of 1980 (Annexure P-1), petitioner (since deceased) was entitled to the pension but the same was not granted. He submits that one of the similar situated person namely Banta Singh had approached this Court for claiming identical relief vide CWP No.10347 of 2007 and this Court disposed of the writ petition with a liberty to the applicant therein to apply for fresh pension under the aforementioned scheme.

He further submits that the petitioner thereafter also applied for pension vide application (Annexure P-5) (Colly) i.e. on 10.02.2009 and in response to the aforementioned application, Government of India/Bharat Sarkar, Ministry of Home Affairs/Grih Mantralaya wrote a letter dated 19.03.2009 to the Advocate for considering the cases on the basis of the court orders in the name of Banta Singh, Bhagat Singh Bali and Niranjana Singh and even the name of the petitioner is also figuring at Sr. No.9 acknowledging the submissions of the application dated 10.02.2009. Scheme was liberalised vide Annexure P-2, whereby the applicant who did not have original proof with regard to the imprisonment during the period of slavery, the secondary evidence was recognized. The petitioner (since deceased) had recorded her statement through Tehsildar Rajpura on 23.07.2009 and Tehsildar Rajpura submitted his report to the SDM vide Annexure P-7 on 29.07.2009. On the basis of the report of SDM Rajpura dated 08.03.2010, the Deputy Commissioner vide letter dated 27.04.2010 (Annexure P-9) recommended the matter to Superintendent, Government of Punjab, Department of General Administration, (Political-3 Branch),

Chandigarh.

It has been submitted that no decision on the said application has been taken. Non-decision on the representation or recommendation, much less, granting of the family pension had been owing to the registration of CBI case at Tis Hazari Courts, New Delhi but as per the information sought under RTI vide Annexure P-3 dated 14.07.2008, it has been clarified that there are no names of the freedom fighters. Once vide Annexure P-6, the application is acknowledged, the Government should have taken the decision.

Per Contra, Mr. Parminder Singh Kanwar, Sr. Panel Counsel for Union of India submits that in view of the registration of CBI and particularly application being not submitted according to SSC Rules, Central Government cannot grant the family pension. Until and unless, the recommendation of the State Government is received, no purpose would be served in calling upon the Union of India.

Mr. Yatinder Sharma, learned counsel appearing on behalf of Punjab State submits that he does not deny the letter (Annexure P-9) regarding the recommendation by the Deputy Commissioner but submits that no decision has been taken.

I have heard learned counsel for the parties and seen the paper book and of the view that instead of deliberating upon the merits and demerits of the matter regarding entitlement, I deem it appropriate to dispose of the writ petition by issuing directions to respondent No.3 to decide the recommendation (Annexure P-9) of the petitioner (since deceased) by affording opportunity to the LRs of petitioner (since deceased)

Yadvinder Kaur who shall be entitled to give all the proof and all other documents in support of their case for the purpose of recommending the matter to the Central Government.

Let exercise should be done within a period of four months from the date of receipt of certified copy of this order.

With the aforementioned observations, the present writ petition stands disposed of.

**11.01.2017**

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**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**