

CWP-15816-2013

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

CWP-15816-2013.

Decided on: February 21, 2017.

Harinder Pal Kaur

.. Petitioner(s)

VERSUS

Union of India and others

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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**PRESENT Mr.Rajiv Atma Ram, Sr. Advocate, with
Mr.Vikas Kuthiala, Advocate,
for the petitioner.**

**Mr.Pankaj Gupta, Senior Panel Counsel,
for UOI-respondent No.1.**

Mr.Inderpal Goyat, Addl. A.G. Punjab.

M.M.S. BEDI, J. (ORAL)

The petitioner claiming herself to be the widow of Sh.Mohinder Singh Pannu has approached this Court invoking the writ jurisdiction under Articles 226 and 227 of the Constitution of India for release of Swatantra Sainik Sanman Pension to the petitioner w.e.f. 1.9.2010 till date along with arrears thereof with interest @ 15 per cent per annum as per the instructions of Union of India dated 23.2.2012, a copy of which has been placed on record as Annexure P18.

Petitioner had earlier filed CWP No.20400 of 2010

titled as Harinder Pal Kaur Pannu Vs. Union of India and others, for issuance of writ in the nature of mandamus directing the State of Punjab and Union of India to release the Swatantra Sainik Sanman Pension to the petitioner. As there was a controversy existing at that time whether the petitioner had married Mohinder Singh Pannu during the subsistence of his marriage with Pritpal Kaur who claimed herself to be the first wedded wife of Mohinder Singh Pannu, the said petition was disposed of vide order dated 5.10.2012, by passing the following order: -

“Deputy Commissioner, Tarn Taran who has looked into the matter has suggested that the matter can only be determined by appropriate proceedings in a Civil Court.

In view of above, learned counsel for the petitioner prays for permission to withdraw the instant petition with liberty to file a civil suit in order to conclusively determine the issue of legitimacy of the recipient of the freedom fighters pension. It may be noticed that both the claimants to the benefit of pension are claiming themselves to be wives of the deceased namely Mohinder Singh Pannu who is said to be a freedom fighter. In case such a civil suit is filed by the petitioner, the same shall be decided expeditiously by the learned Trial Court considering the fact that the claimants who are in conflict are old ladies. The petitioner is also at liberty to move an appropriate application before the learned Trial Court regarding a restraint order qua the

disbursement of the pension. In the event of such an application being moved, the learned Trial Court shall not be swayed by any of the orders passed by this Court during the subsistence of the writ petition and shall apply its mind independently to the facts of the case and pass an appropriate order in accordance with law. Disposed of with liberty aforesaid.”

The office of Deputy Commissioner, Tarn Taran, had issued freedom fighter certificate to Smt.Pritpal Kaur, the real wife of Mohinder Singh Pannu and vide letter dated 3.8.2010, the Deputy Commissioner, Tarn Taran, had certified that Pritpal Kaur was the real wife of Lt.Mohinder Singh Pannu who was recognised Freedom Fighter of District Tarn Taran.

Without entering into the controversy regarding the entitlement of the petitioner or Pritpal Kaur in the capacity as successor wife, it is pertinent to mention here that Government of India vide Annexure P18 dated 23.2.2012 has issued certain instructions, which read as follows: -

“To

Chief Secretaries of all the State Governments/UT Administrators.

Sub Dependent family pension under the Swatanarta Sainik Sanman Pension Scheme (SSSP) 1980 to the widows of the deceased freedom Fighter pensioners.

Sir

I am directed to invite your attention to this

Ministry's letter No.8/2/98-FF(P) dated 13.10.2000, on the subject cited above (copy enclosed for ready reference), Para 2 (iv) of the letter stipulates, "that in case the deceased freedom fighter had communicated to his Ministry the nomination of more than one legally wedded wives as dependents, the family pension admissible to one dependent widow would be shared by them equally. Such widows would not be treated as separate entities for grant of family pension under the aforesaid scheme."

2 *It is clarified that the letter dated 13.10.2000 containing the above clarification is applicable not only for the future cases but in respect of past cases also. The effective date of this letter was from the date of issue of the order i.e. 13.10.2010 which means as recovery in the past cases would be effective.*

3 *It is further clarified that in a case a freedom fighter had two legally wedded wives, the family pension is to be shared equally by them on death of their husband who was a Central Sanman Pensioner and on death of one of the two such wives the surviving one will be entitled for full family pension.*

It is requested the instructions in this regard may be issued to all concerned to keep the above in view while deciding on requests for transfer of dependent family pension."

The claim of the petitioner is to be decided on the basis of instructions Annexure P18, dated 23.2.2012, which

prescribed that if a freedom fighter has got two legally wedded wives, the family pension is to be shared equally by them on death of their husband who was Central Sanman Pensioner and on death of one of the two such wives, the surviving one will be entitled to full family pension. It is an admitted fact that Sh.Mohinder Singh Pannu, had died on 29.11.2009. Pritpal Kaur had claimed herself to be the first wife of Sh.Mohinder Singh Pannu whereas petitioner Harider Pal Kaur claims herself to be the wife of Sh.Mohinder Singh Pannu, on the basis of the marriage certificate dated 18.9.2003. Mohinder Singh Pannu being a divorcee is also established from above certificate. It appears that the instructions Annexure P-18 dated 23.2.2012, which existed on 5.10.2012 was not brought to the notice of the Court.

Mr.Rajiv Atma Ram, learned Senior counsel appearing on behalf of the petitioner has submitted that even if it is presumed that Pritpal Kaur was the legally wedded wife of Sh.Mohinder Singh Pannu and the relevant documents regarding her divorce with him could not be produced before the Deputy Commissioner, even then the petitioner would be entitled to claim Swatantarta Sainik Sanman Pension as widow being the only surviving one after the death of Pritpal Kaur. He has submitted that during the course of hearing in CWP No.20400 of 2010, a representation had been filed by Pritpal Kaur to the State of Punjab for claiming freedom fighters widow pension and she was declared wife of Sh.Mohinder Singh Pannu on 2.11.2011. He has urged in

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context to the instructions Annexure P18 dated 23.2.2012, that after the death of Pritpal Kaur on 12.11.2012, the petitioner being the only surviving wife shall be entitled to full pension.

I have heard the learned counsel for the petitioner and considered the facts and circumstances of the case. The fact of Sh.Mohinder Singh Pannu having married Pritpal Kaur is not disputed. The marriage of Sh.Mohinder Pal Singh Pannu with petitioner also has not been nullified by any Court till date. The Deputy Commissioner, Tam Taran, had held Pritpal Kaur as the wife of Sh.Mohinder Singh Pannu but after her death, the entire scenario has changed and the rights of the parties will be governed by Annexure P18, dated 23.2.2012, which have been reproduced hereinabove.

The present writ petition is allowed. The order dated 26.10.2010, Annexure P16, stopping the pension of the petitioner by the office of Accountant General, (A&E) U. T., Chandigarh and the order Annexure P9 dated 14.9.2010, regarding closure of pension to the petitioner under Punjab Pension Scheme of Freedom Fighters and order Annexure P13 dated 6.10.2010, requiring the petitioner to produce the proof of divorce of first wife of Sh.Mohinder Singh Pannu, are set aside and it is held that the petitioneor is entitled exclusively to the pension w.e.f. 12.12.2012. i.e. the date of death of Pritpal Kaur. As the pension of the petitioner was stopped from 14.9.2010, it will be open to any claimant to avail the pension/shared

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pension for the period from 14.9.2010 till 12.11.2012. In case any litigation between the petitioner and deceased Pritpal Kaur is pending before any civil Court that too will be adjudicated upon in the light of instructions Annexures P18 dated 23.2.2012. The respondents are directed to release the Swatantarta Sainik Sanman Pension to the petitioner as his widow w.e.f 12.11.2012, within a period of two months after the receipt of certified copy of this order. However, reasonable time can be taken to decide regarding apportionment of the pension for the period prior to 12.11.2012 in accordance with regulations. It is made clear that any observations made by this Court is only regarding the claim of the petitioner for Swatantarta Sainik Sanman Pension.

Nothing said in this order will affect the rights of the petitioner or any other rival claimant pertaining to any other property or rights after the death of Mohinder Singh Pannu and Pritpal Kaur.

(M.M.S. BEDI)
JUDGE

February 21, 2017.
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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No