

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 5017 of 2011 (O&M)

Date of Decision: March 6, 2017

Ishar Kaur

.....Petitioner

Vs.

UOI and ors.

.....Respondents

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

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Present:- Mr.Navratan Singh, Advocate
for the petitioner.

Ms. Sheenu Sura, Advocate for UOI.

Mr. H.S. Sethi, Advocate, for respondent No.2.

Mr.I.P. Goyat, Addl.A.G., Punjab.

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M.M.S. BEDI, J.

Petitioner is a widow of late Naik Nidhan Singh who had been killed by mob protesting the assassination of Prime Minister of India in the year 1984. Since the enforcement of the legal rights has been claimed by the petitioner being a resident of Punjab against the State, this writ petition is maintainable against all the respondents.

Through instant petition, the petitioner seeks a writ in the nature of mandamus directing respondent No.2 Deputy Commissioner (Revenue Branch) District Ramgarh (Jharkhand) to release the compensation of sum of Rs.3.50 lacs and the enhanced amount along with interest at the rate of 18% per annum from the date it was allowed till actual realization. The husband of the petitioner was combatant member of Indian Army and was enrolled in the Indian Army on February 9, 1972. In the year 1984, said Nidhan Singh was posted in the strength of 21 Punjab Regiment and was on temporary duty to Punjab Regimental Centre, Ramgarh Cantt., and was to report to Punjab Regimental Centre on November 1, 1984. He was travelling in train No.184 down Kalka Ranchi Express on October 31, 1984. There were wide spread riots in the country. The military compartment of the above said train was attacked by mob on November 1, 1984 at about 9.30 hours at Garwa Road Railway Station within the territorial jurisdiction of District Ramgarh. Some of the army personnel who were travelling in the train were killed. Again at about 12.00 hours, on the same day, when train was passing through thick jungle, the train was stopped by the mob and Nidhan Singh was pulled out from the compartment, being Sikh person, and was killed. He was declared missing by the Army authorities. Later on, the Army authority conducted the inquiry regarding the number of army personnel having been killed by the mob in the entire country. The name of Nidhan Singh was also listed amongst the list of killed persons at Sr. No.11 submitted to respondents No.1 and 2. The local police authorities had

registered FIR to that effect in District Ramgarh. The Army authorities had issued and submitted list to respondents No.1 and 2. After receiving the inquiry report from the Defence Ministry, respondent No.2 issued a letter to respondent No.3, Directorate, Sainik Welfare, Punjab, whereby the petitioner was asked to submit the claim before the office of respondent No.2 for receiving the compensation amount vide letter dated April 9, 2010, annexure P-3. Respondent No.2 also published a general notice annexure P-4 dated March 22, 2010 whereby the effected persons were required to submit their claim on or before March 27, 2010. The petitioner submitted all the requisite documents asked for by the office of respondent No.3. Respondent No.3 submitted the claim of the petitioner to respondent No.2. Respondent No.2 considered the claim of the petitioner and asked the petitioner to appear before its office for getting the compensation amount vide letter dated April 20, 2010. Respondent No..3 vide its letter dated April 21, 2010, annexure P-5 directed the petitioner to appear in the office of respondent No.2. Petitioner along with her son Manjit Singh reported in the office of respondent No.2 and made representation on June 8, 2010 seeking compensation amount and stayed for three days in District Head Quarter, Ramgarh for getting the compensation amount but the amount was not released. The petitioner returned to District Patiala. In the above said background, the petitioner has sought a direction to release compensation to the tune of Rs.3.50 lacs and the amount enhanced thereafter along with

interest at the rate of 18% per annum from the date it was allotted till actual realization of the payment.

On notice having been issued to the respondents, separate replies have been filed. Respondent No.3 has claimed that it has got no concern with the release of compensation to the petitioner but admitted that no ex-gratia amount was paid to the petitioner from the State Government. On behalf of respondent No.2, a reply has been filed by the Executive Magistrate, Ramgarh, pleading that no fund was allotted either by the Central Government or the State Government to respondent No.2 but only status was being asked by the State Government. The fact that husband of the petitioner while travelling in the train was attacked by the mob and was killed being a Sikh person was not denied but it has been vaguely pleaded that no authenticated report regarding army men killed in 1984 riots in Bhoor Kanda was available. It is admitted that Manjit Singh, legal heir and son of late Naik Nidhan Singh had come to Ramgarh and submitted a petition dated June 8, 2014 along with some papers and requested to make payment of compensation. It is pleaded that no compensation was paid for want of evidence and non-receipt of record of Superintendent of Police, Government Railway Police, Dhanbad. It is pleaded in the reply that after filing of the present writ petition, the entire case report was called for and on examination of the relevant record, it was found that respondent No.2 had submitted a detailed report to the Under Secretary, Home Department, Government of Jharkhand, Ranchi, vide letter dated June 12, 2010

enumerating the facts that case record of Army pertaining to late Naik Nidhan Singh was received from the office of Deputy Commissioner, Hazaribagh for payment of compensation but in fact no fund was ever allotted as rehabilitation package from Government in respect of late Naik Nidhan Singh and no payment was made for want of evidence. It is assured in the written statement that on receipt of evidence further action can be taken. As the name of Nidhan Singh was not found mentioned in the police case diary of Railway Police No. 38/54, dated November 1, 1984, under Section 147, 148, 149, 302 of IPC, the death of said Army personnel could not be established in Dhanbad Railway Police jurisdiction as per the report submitted by Government Railway Police.

Since the disputed question was sought to be raised regarding the death of Nidhan Singh on the ground that no evidence or material was available with respondent No.2, the petitioner placed on record annexures P-6 and P-7 (colly), the documents obtained by her under RTI Act. Annexure P-7 (Colly) is a detailed report of the Court of Inquiry in case of Naik Nidhan Singh. The Court of Inquiry based upon the investigation into the circumstances in which Naik Nidhan Singh of 21 Punjab was dispatched from the Unit to Punjab Regimental Centre, concluded that Nidhan Singh and was found missing. Statements of co-passengers of Naik Nidhan Singh had been recorded to the effect that the train was attacked at Railway Station, Kanpur by angry mob shouting that the Sikhs had killed their mother and that a part of the mob got into the compartment and man-handled

Havildar Clerk Sukhminder Singh Mangat, who was not in uniform and snatched the watch of Lance Naik Balwant Singh and that at Garwa Road Railway Station, there was a more than thousand strong mob, which was raising anti Sikh slogans and attacked the train and also started dragging out and killing Sikhs from the train. In the compartment, there were ten Sikh Jawans and 15 Dogra Jawans and two civilian Sikhs. The mob had started concentrating near the compartment which was the last one and bolted from inside. The mob threatened to separate the compartment and burn it unless the door was opened. One Dogra Jawan opened one of the doors. Soon a part of the mob rushed into the compartment and started beating up the Sikhs. They dragged out Naik Nachhattar Singh and Naik Balbir Singh from train and stoned them to death. They also took away Havildar Naik Sukhwinder Singh and Sepoy Lal Singh. After killing, the body of Havildar Clerk Sukhminder Singh Mangat was thrown back into the train though Sepoy Lal Singh was set on fire after hitting badly with stones. He managed to get back into the compartment alive. Sepoy Gurnam Singh was also badly mauled up by the angry mob. Meanwhile, some of the mob took away the civilian Sikhs who were hiding in the compartment and their whereabouts were not known afterwards. The witness informed that the Dogra Jawans present in the compartment ran away to some other compartment but Lance Naik Nazar Singh and Sepoy Lal Singh got into the toilets of the compartment and bolted it from inside. But soon it was broken open by a person who at knife point demanded all the money and valuables

from them. Lance Naik Nazar Singh handed over wrist watch and Rs.250/- to him. The civilian later on provided them security from the mob till the train moved out and thereafter warned that they might be killed at the next railway station. The train had left Garwa Road at 11.30 hours. Only six persons, namely, Naik Nidhan Singh, Naik Surinder Singh, Naik Balwant Singh, Sepoy Gurnam Singh and Sepoy Lal Singh were left in the compartment. At about 12.00 hours, when the train was passing through a thick jungle, they pulled the chain and stopped the train. The moment train stopped they all got down and started running into the jungle. Meanwhile, two other civilian Sikhs also joined them from some other compartment. About 15 kms they traveled through the jungle without any trouble, then they came across a settlement at about 15:00 hours on the same day. The moment the locals of that settlement saw them, they started shouting and chasing them further into the jungle. Some of them carried rifles and a few shots were fired at them. At this stage they found a mob coming at them from front also. They ran helter-skelter into various directions. Naik Nidhan Singh who was following them was shot at by the mob and he fell on the ground and was overpowered by the mob and killed. Sepoy Lal Singh joined Lance Naik Nazar Singh on the run and they hidden themselves in a gap of cliff, found in the jungle. A group comprising of Naik Surinder Singh, Lance Naik Balwant Singh, Sepoy Gurnam Singh and two civilian Sikhs reached another nearby settlement where the people were hospitable and gave protection to them. After hearing the said plight, some of the locals

along with these Sikh Jawans came back to the jungle where Lance Naik Nazar Singh and Sepoy Lal Singh were hiding. They were called by their names but because of fear they did not join them but seeing the other friends with the group they joined them. As such Naik Nidhan Singh was found missing. The locals treated the group well and provided aid and food to the wounded persons. Sarpanch of the village informed the local police of the incident. At about 21.30 hours on the same day, a police party from Garwa Road came to the village and took them back to the Garwa Road Railway Station. From there, under special arrangements by the Railways, a police escort of seven took them to Daltonganj Railway Station by mid night and handed them over to the railway police. A big crowd had gathered around the building where they had kept at 04.00 hours on November 2, 1984 and started demanding that they should be thrown out from the building. At about 07.00 hours, a policy party came and took them to the police station where they were handed over to 31/1 GR, an Army unit. Two civilian Sikhs were detained in the police station. Later on, on November 3, 1984, when 'B' Company 27 PUNJAB came to Daltonganj on internal security duties, we joined them. Similar statement was made by Sepoy Lal Singh of Punjab Regimental Centre, Ramgarh. Statement of Lance Naik Balwant Singh was also recorded on the same lines. The opinion of the Court of Inquiry consisting of one Major and two Captains is to the effect that Naik Nidhan Singh was on bonafide Government duty and while moving on temporary duty to Punjab Regimental Centre, Ramgarh in Bihar by 184- Kalka-Ranchi

Express on November 1, 1984, was killed by a mob. The loss of Identity Card and pay book belonging to Naik Nidhan Singh took place due to attack by anti Sikh mob at Garwa Road Railway Station and no one is to be blamed for the same. The opinion of the Court of Inquiry stands recommended by the senior authority and Naik Nidhan Singh was declared dead as he was missing under abnormal circumstances since November 1, 1984. His death is attributable to military service in peace area. The Court of Inquiry is based upon the statements of the Army officials who were present along with Naik Nidhan Singh at the time of his killing by the mob.

The document annexure P-7 (Colly) may not be a legally admissible document for official purpose but it is sufficient material for this Court to arrive at a conclusion regarding the murder of husband of the petitioner by a mob in the area of Garwa Road Railway Station. The claim of respondent No.2 that there is no evidence regarding the killing of Naik Nidhan Singh in the area of Jharkhand is baseless and unbelievable. It is apparent that the entire incident being a shameful act in democratic country like India has been sought to be concealed by the official respondents. The investigation conducted by Army authorities and the circumstances in which Naik Nidhan Singh of 21 PUNJAB was killed make the respondents liable to immediately release the ex-gratia compensation amount of Rs.3.50 lacs on account of his death having been killed by the mob in the year 1984 in anti-Sikh riots. The contention of counsel for respondent No.2 Mr. H.S. Sethi

that there is no evidence available regarding Naik Nidhan Singh having been killed in anti Sikh riots is rejected in view of the report annexure P-7.

Respondent No.1 Union of India in its written statement has pleaded that Ministry of Home Affairs, Government of India framed a policy 'Sanction of Rehabilitation Package' to provide relief to the victims of 1984 riots" and circulated the same vide letter dated January 16, 2006. As per the above said rehabilitation policy, Ex-gratia amount of Rs.30 lacs was required to be paid in the case of death during the riots which will be in addition to the amount already paid by the State Government. As per the Rehabilitation Policy guidelines, no new claim for grant of ex-gratia for death or injury would be entertained and only those who received ex-gratia earlier would be eligible for the enhanced additional ex-gratia amount. As per para 3 (iii) & (iv) of the Rehabilitation Policy, the claim will be duly verified/ scrutinized by the local Administration/ Agency of the State Government and the Committee constituted by the State to consider the verified/ scrutinized claims will make necessary recommendations in regard to whether claim should be accepted for payment or rejected. It is stated by Under Secretary, Ministry of Home Affairs, Government of India, New Delhi on behalf of respondent No.1 that claim of the petitioner is to be decided by respondent No.2 and 3 and the Union of India is only bound to make the payment to the concerned State when reimbursement has been claimed by the State.

Taking into consideration the said Rehabilitation Policy and the sufficient evidence available on the record regarding killing of Naik Nidhan Singh in anti Sikh riots in 1984, a direction is issued to respondents No.2 and 3 to take necessary steps for disbursement of the compensation of Rs.3.50 lacs to the petitioner along with interest at the rate of 12% per annum from the date of Rehabilitation Policy dated January 16, 2006. A direction is also issued to Union of India- respondent No.1 to reimburse the amount to the State subsequently. It is directed that necessary steps will be taken by respondent No.2 to ensure that the amount of Rs.3.50 lacs along with interest at the rate of 12% per annum w.e.f. the date of applicability of Rehabilitation Policy be released to the petitioner within a period of one month after the receipt of a certified copy of the order. If any steps are to be taken to facilitate the said release, respondent No.3 will take necessary steps.

Allowed in the aforesaid terms.

March 6, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.