

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

Date of decision: 18.04.2017

CWP No.6894 of 2015

Pushpa Devi

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sunil Nehra, Advocate, for the petitioner.

Mr. Rajvir S. Sihag, Advocate, for the respondents.

RAJIV NARAIN RAINA, J.

The present petition has been filed with the following prayers
by a widow claiming:

- (a) To grant special extra ordinary family pension;
- (b) To grant ex-gratia lump-sum compensation; &
- (c) Employment to the petitioner being dependent of
Government servant.

The petitioner's husband expired due to heart failure on October 14, 2012 while he was working as a Driver with Border Roads Organisation (BRO). The petitioner's husband had served at various difficult stations including in Assam, Leh, Ladakh and in Jammu & Kashmir. At the time of his death, he was posted in Jammu & Kashmir.

On notice, reply has been filed by the Department and claim of ex-gratia lump-sum compensation of ₹15 lakhs and special extra ordinary family pension has been denied on account of the fact that death had occurred due to heart failure and not on account of service. It has also been

mentioned in the reply that the husband of the petitioner suffered heart attack while going to the market.

The Division Bench in LPA No.311 of 2010 in case “Union of India Vs. Tanu Shree Balhara and another” (judgment at Annex P-4) had dismissed the appeal filed by the Union of India in which in the first instance the learned Single Bench had granted benefits to the petitioner in similar circumstances as the husband of the petitioner i.e. special family pension. In that case the husband of the petitioner had expired due to heart attack while he was on casual leave.

In the petitioner’s case, her husband was on duty and was posted in Jammu & Kashmir.

In another case, this Court in CWP No.17135 of 2009 titled “Smt. Kunta Devi Vs. Union of India” (judgment at Annex P-2) has held that the widow shall be entitled to extra ordinary pension. In this case also the husband of the petitioner died because of suffering a heart attack.

This Court in CWP No.1399 of 2011 in case titled “Promila Devi Vs. Union of India” (Judgment at Annex P-3) granted extra ordinary family pension and other allied benefits to the petitioner therein after relying on the judgment passed by the Division Bench in Kamlesh Devi Vs. State of Punjab reported as 2002 (1) SCT 929 in which this Court explained the meaning of the word ‘accident’ as under:

“The word “accident” also occurs in Section 3 of the Workmen’s Compensation Act, 1923 but here too it has not been defined and it has come to acquire a settled meaning and denotes some unexpected event happening without design even though there may be negligence on the part of the person meeting with an accident. It would, therefore, include not only such obvious occurrence as collisions, tripping over floor obstacles, fall of roof, but

also less obvious ones causing injury such as strain which causes rupture, exposure to a draught causing chill, exertion causing apoplexy and shock causing neurasthenia. It would also include a heart attack which is unexpected event happening without design.”

That ex-gratia lump-sum compensation of ₹15 lakhs has also been denied to the petitioner on the ground that ex-gratia lump-sum compensation is not to be paid to a person who dies because of heart attack which ground has been taken as preliminary submission No.2 of the reply. Preliminary submission No.2 reads as under:

“That it is further submitted that as per condition and guideline laid down in Deptt. of pension & pensioner welfare OM No. 45/ 55/ 94-P&PW (C) dated 11 Sep 1998, as amended vide OM No. 38/37/0-P&PW (A) dated 02 Sep 2008, ex-gratia lump sum compensation payment also covers the cases where death occurs in the specified circumstances such as death attributable to accident while on duty, act of violence, anti social elements, war or border skirmished, militant attack, terrorist and extremist attack and also where death occurs while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters and extreme weather conditions. In the instant case, EXGS-179413X DVRMT late Vijender Singh died due to Cardio Respiratory Failure which is not covered the condition to pay ex-gratia lump sum compensation.”

The Division Bench in *Kamlesh Devi* has held that the word ‘accident’ would also include person dying of heart attack which is an unexpected event which happens without design. In this manner and in view of the case law noticed above, the petitioner most definitely has a positive case for reliefs in prayers (i) and (ii) above.

That with regard to the third prayer for appointment on compassionate basis it has been mentioned in the reply that the name of the petitioner Smt. Pushpa Devi now stands at Sr. No.252 out of 633 cases recommended case as on 30.09.2015.

Since the claim regarding compassionate appointment has been accepted by the Department and the name of the petitioner is at Sr. No.252 out of 633 names as on 30.09.2015 and admittedly is in the pipe line, the respondents are directed to keep the claim alive till it matures.

As far as prayers (i) and (ii) are concerned, they are allowed. The impugned order rejecting the claim regarding prayers (i) and (ii) is quashed as illegal, arbitrary and against the settled law. The amounts are declared due and payable from the date of death and the sum shall paid within three months from the date of receipt of order, with interest @ 6% per annum, failing which, interest will become payable on the principal amounts at the rate of 9% per annum till payment.

18.04.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*