

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

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CWP-20142 OF 2016 (O&M)
Date of Decision: 08.03.2018

SOMESH VASHISHT

...Petitioner.

Versus

UNION OF INDIA AND ORS.

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

Mr. Alok Kumar Jain, Senior Panel counsel
for Union of India.

ANUPINDER SINGH GREWAL, J.

CM-14599-CWP-2016

This application is for placing on record the amended writ petition.

The amended writ petition is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CM stands disposed of.

MAIN CASE

This petition has been listed as public interest litigation on receipt of letter of the petitioner wherein it was stated that his father had lost his life on 22.12.2015 due to air crash of BSF Super King B200 aircraft near Mohammadpur Village, Dwarka, New Delhi while proceeding to Ranchi, Jharkhand.

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2. The father of the petitioner was enrolled in BSF Air Wing on 15.07.2010 after having served in the Indian Air Force for 23 years wherein, he had superannuated as the Junior Warrant Officer. It is, inter alia, stated that as the petitioner was on duty when the aircraft was being flown to help the soldiers in the naxalite infested area, he should be entitled to all the benefits which are available to martyrs in a war. It is further stated that all paramilitary personnel, who were killed while on duty, should also be treated as martyrs.

3. In the reply filed on behalf of Union of India, it is stated that after the death of the father of the petitioner, a Staff Court of Enquiry was constituted to investigate the circumstances under which the crash had occurred. The said enquiry made the following recommendations:-

“a. Extra Ordinary Pension under “Category – D” of Central Civil Services (EOP) Rules, 1939 be granted to the Next of Kin of all ten deceased.

b. All other financial benefits be released to the NOKs of above deceased immediately as applicable under rules.

c. An opportunity for compassionate appointment to the next of Kin/dependent of the deceased may be extended as per their eligibility.”

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4. It is also stated that financial benefits amounting to Rs.36,76,928/- have been released to the mother of the petitioner. The mother of the petitioner was informed on 02.06.2016 that there is no provision or policy of the Government of India to issue "Martyr Certificate" in the case of personnel of BSF/CAPF. It is, however, further stated that as the mother of the petitioner had once again represented in this regard, the matter was taken up at the highest level in a meeting under the Chairmanship of the Union Home Minister on 27.09.2016 and after due deliberation, a decision was taken under the Agenda No.6 that the Director General, BSF requested that CAPF's may be permitted to issue "Battle Casualty Certificate" and it was further decided that Ministry of Home Affairs shall issue instructions in this regard to all State Governments, for which the process was proposed.

5. In the written statement filed on behalf of the State of Haryana, it is stated that the State Government on consideration of the matter, sanctioned an amount of Rs.20 lakhs to the next of kith and kin of the father of the petitioner.

6. Learned counsel for the Union of India had stated that the case for issuance of "Battle Casual Certificate" with regard to the father of the petitioner is under consideration of the Ministry.

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7. Learned counsel for the petitioner, at this stage, has contended that the case is under consideration of the Ministry of Home Affairs for grant of "Battle Casualty Certificate" for almost 02 years and final decision has not been taken. He further submitted that it may be directed to take a decision in a time-bound manner.

8. It is manifest from the perusal of the afore-noted replies filed by the respondents that the necessary financial assistance for the death of the father of the petitioner as applicable in terms of the policy, has been disbursed. However, no decision has been taken with regard to "Battle Casual Certificate", although the matter is pending since long.

9. Therefore, respondent No.1 is directed to take a final decision with regard to the grant of "Battle Casualty Certificate" for the death of the father of the petitioner, in accordance with law, within a period of 02 months, from the date of receipt of certified copy of this order.

10. The petition stands disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

08.03.2018

SwarnjitS

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO