

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 7213 of 2014 (O&M)
Date of Decision: February 12, 2018

Kunta Devi

... Petitioner

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. N.R. Dahiya, Advocate,
for the petitioner.

Mr. Shivoy Dhir, Central Govt. Counsel for
respondents-Union of India.

P.B. Bajanthri, J. (Oral)

1. Petitioner is wife of late Sep/GD Subhash Chandra who was serving in 166 Battalion of C.R.P.F. When he was deployed on active duty in operational and disturbed area of State of Jammu and Kashmir, he died on 12.05.2007 while he was on patrol duty. Petitioner has approached this Court seeking extra ordinary family pension in CWP No.17135 of 2009. This Court allowed the petition on 17.11.2010 while holding that death of the deceased employee is attributable to Government service, while on duty. On the very same principle, petitioner submitted application for benefit of ex-gratia in terms of Annexure R-1 dated 02.09.2008. Petitioner's grievance for ex-gratia has been turned down on 13.05.2013 (Annexure P-8). Hence, present petition.

2. Learned counsel for the petitioner submitted that deceased employee while he was on patrol duty i.e. operational and disturbed area of

State of Jammu and Kashmir, died and this Court has already held that death is attributable to the Government service while on duty, therefore, the same yardstick is applicable for the purpose of extending benefit of ex-gratia amount under Annexure R-1. Consequently, impugned order dated 13.05.2013 is liable to be set aside. In support of petitioner's claim, learned counsel relied on the following decisions to the extent an employee's death could be attributable to the Government service:-

- 1) ***Radhika Devi vs. Union of India and others, reported in 2014(10 RCR (Civil) 3136;***
- 2) ***Kamla Devi vs. Union of India and others, reported in 2011 (182) DLT 239;***
- 3) ***Kanta Yadav vs. Union of India and other, reported in 2004(3) RSJ 665;***
- 4) ***Mrs. Manju Tewari vs. Union of India and others, reported in 2005(3) SCT 458;***
- 5) ***Samaj Kaur vs. Union of India, reported in 2006(134) DLT 165;***
- 6) ***Smt. Santosh vs. Union of India and others, reported in 2010 (1) SCT 518; and***
- 7) ***K. Mallika vs. Executive Engineer, Potteru Irrigation Division, Balimela, reported in 2001 ACJ 712.***

3. Per contra, learned counsel for the respondents while resisting the petitioner's claim submitted that on the ground of belated claim, petitioner is not entitled. It was further submitted that once the petitioner has claimed extra ordinary family pension in the year 2009, she had cause of action in the year 2007 as and when her husband died. Thus, on the ground of delay and laches, petitioner is not entitled.

4. Heard learned counsel for the parties.

5. Petitioner is wife of a CRPF personnel. She may not be in a

position to know what are her dues after death of her husband. Therefore, respondents' contention that there is delay and laches in claiming the benefit of ex-gratia cannot be appreciated. Moreover, once this Court has held that death of the deceased employee is attributable to the Government service and directed the respondents to extend the benefit of extra ordinary family pension, it was bounden duty of the respondents to extend the benefit of ex-gratia lump-sum compensation with reference to the office memorandum dated 02.09.2008 (Annexure R-1) or they could have apprised the petitioner that she can claim benefit under Annexure R-1. Having regard to the factual aspect that petitioner's husband died and this Court has allowed extra ordinary pension with reference to nature of death of the deceased employee on 17.11.2010 read with decisions cited supra, petitioner is entitled to benefit of ex-gratia on account of death occurring due to accident in the course of performance of duties. Thus, Annexure P/8 is set aside. Consequently, concerned respondent is hereby directed to consider the grievance of the petitioner and extend ex-gratia benefit under Annexure R-1 dated 02.09.2008 within a period of four months from today, failing which petitioner is entitled to interest @ 6% per annum from today.

6. Instant petition stands allowed.

February 12, 2018
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No