

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 14.11.2019****CWP No.10771 of 2017 (O&M)**

Pal Kaur

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Dr. Payal Mehta, Advocate, for
Mr. H.C.Arora, Advocate, for the petitioner.

Mr. Shivoy Dhir, Senior Panel Counsel
for respondent-UOI.

Ms. Simran Grewal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. The petitioner's husband – Dharam Pal Singh (Hav.No.3346846) of 4 Sikh Regiment, who fought during the war against Pakistan in the Indo-Pak conflict serving at the Bangladesh Border during the year 1971, was declared a Martyr by the Government of India, as his body was not traceable and his name was also not included in the list of missing soldiers maintained by the Defence Ministry, Government of India, New Delhi. Earlier, the petitioner was allotted land under a policy of compensation for families of Martyrs, but due to change of policy, the arrangement was replaced with cash compensation in lieu of land.

2. Today, Ms. Simran Grewal has produced the photocopy of the Pay Order signed by the Treasury Officer, District Treasury Office, Bathinda

releasing a sum of Rs.43,34,375/- in favour of the petitioner. A photocopy of the Pay Order is retained on record.

3. Counsel for the petitioner submits that her client affirms bank credit in her account. She also expresses her sentiments that in case her husband is found alive, she would not be interested in the receiving the monetary compensation.

4. The sentiment may be pious, but is not judicially manageable by any standard known to law of compensation and its relinquishment nor can the court puts its stamp of approval to this in the absence of an affidavit by her giving up her claim. A sentiment made orally through counsel is of no legal consequence.

5. The only solution in recognition of her sentiment could have been to ask her to deposit this money before the Registrar General of this Court in an interest bearing account and wait till the presumptive death of her husband in the normal course of nature occurs by passage of time which period must be long over given that the petitioner is 80 years old today and her husband would be assumed to be 2-3 years older than her had he been alive. This sentiment which is worthy of respect has been recorded in the order on the insistence of the learned counsel.

6. However, with the grant of cash compensation in lieu of land, nothing remains to be decided in the instant case. As far as the prayer/s for directions to the Central Government asking it to take up the matter with Government of Pakistan are concerned, no such directions can be issued by this Court in exercise of jurisdiction under Article 226 of the Constitution and that too without verifiable facts available on record, except to say that the Central Government and the State Government will keep their eyes and

ears open in the search of the petitioner's husband thought to be languishing in a jail in Pakistan, through the diplomatic channels.

7. With these observations, the petition stands disposed of.

14.11.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No