

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

**Civil Writ Petition No.15269 of 2016
Decided on : 02.07.2019**

Krishna Devi

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. Sudhir Nar, Advocate
for the respondents.

G.S. Sandhawalia, J. (Oral)

The present writ petition under Article 226/227 of the Constitution of India has been filed for the grant of extra-ordinary family pension. The husband of the petitioner had served with CRPF 114 Battalion for 32 years. He expired on 02.10.2001 due to Carcinoma Cancer at Base Hospital, New Delhi. The family pension was granted on 02.10.2001.

2. The case was agitated for the first time regarding production of medical documents in June, 2014, after 13 years of the death of the service man which would be clear from Annexure P-1, the reply sent to the petitioner. The respondents had replied that the postmortem was not done as he died due to Cancer and documents with regard to his medical were not available. The request for extra-ordinary family pension was, accordingly, rejected vide Annexure P-2 in January, 2015, qua the application which was filed on 29.12.2014.

3. Counsel has submitted that on account of the fact that the petitioner was serving with the CRPF, the disease was attributed to

Government Service and, therefore, the impugned order declining the same was not justified.

4. The respondents in their reply have submitted that the case of the petitioner was not covered under extra-ordinary pension rules as he died due to Adeno Carcinoma Cancer, which was death or disability due to natural cause and which was not attributed to the Government Service. Reliance was placed upon the Central Civil Services Rules (Extra Ordinary Pension Rules) 1939 to submit that the case of the petitioner was not covered under category of extra ordinary pension. The petitioner had served more than 32 years with the CRPF and was medically fit at the time of enrolment. He had undergone treatment at PH-III, CRPF, Guwahati and BH-I CRPF, New Delhi and expired on 02.10.2001. The documents had been asked for after 14 years.

5. Rule 3-A reads as under:-

“3-A (1) (a) Disablement shall be accepted as due to Government service, provided that it is certified that it is due to wound, injury or disease which -

(i) is attributable to Government service, or

(ii) existed before or arose during Government service and has been and remains aggravated thereby.

(b) Death shall be accepted as due to Government service provided it is certified that it was due to or hastened by –

(i) a wound, injury or disease which was attributable to Government service, or

(ii) the aggravation by Government service of a wound, injury or disease which existed before or arose during Government service.

(2) There shall be a causal connection between -

(a) disablement and Government service ; and

(b) death and Government service, for attributability or aggravation to be conceded. Guidelines in this regard are given in the Appendix, which shall be treated as part and parcel of these Rules.”

6. A perusal of the abovesaid rule would go on to show that death is to be accepted due to Government Service provided that it was due to or hastened by a disease which was attributable to Government Service. Under sub Rule 3 (4) 'disease' means a disease as mentioned in Schedule I-A. The said rule reads as under:-

“4. “*disease*” means a disease as is mentioned in Schedule I-A hereto annexed.

7. Schedule 1-A provides a list and classification of the diseases which can be contracted by service. It talks about:

- (A) diseases affected by climatic conditions,
- (B) diseases by stress and strain,
- (D) diseases by dietary compulsions,
- (D) diseases by training, marching etc. and
- (E) environmental diseases.

8. Diseases not normally affected by service have been mentioned at Schedule 1-A (II) and Malignant disease-Cancer and Carcinoma has been mentioned at point (i). Schedule 1-A (II) (i) reads as under:-

“(i) Malignant disease: Cancer and Carcinoma.”

9. It is, thus, apparent that the disease as such which led to petitioner's husband death during his service while serving in the CRPF is

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a disease which can be picked up at any point of time by any person. The argument which has been raised that the disease is attributable to the Government Service is, thus, without any justification, as it has been classified as one which is not normally affected by service conditions.

10. Resultantly, there is no case made out for the claim as such and the writ petition is, accordingly, dismissed.

JULY 02, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No