

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7779 of 2016

Date of Decision : 22.05.2019

Smt. Karti Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nonish Kumar, Advocate for the petitioner.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

Harsimran Singh Sethi, J.(Oral)

In the present case, challenge is to the order dated 09.02.2016 (Annexure P-7) by which the petitioner, who was claiming family pension after the death of her son, namely, Roshan Lal, was told to wait for a period of seven years after the FIR was lodged against Reena Devi that she is not traceable since 27.01.2012, who was receiving the family pension after the death of Roshan Lal being his widow.

The facts as mentioned in the writ petition are that the son of the petitioner, namely, Roshan Lal, was employed as a Driver in Haryana Roadways, who unfortunately, died while in service on 09.09.2009. After the death of Roshan Lal, Reena Devi widow of Roshan Lal was granted the family pension. Reena Devi continued to get the family pension upto February, 2012 when she was reported missing. In this regard, a DDR No. 29 on 27.01.2012 was registered in Police Station Madhuban.

As Reena Devi was not traceable, her family pension was stopped and petitioner being the mother of Roshan Lal, claimed the family pension. As the family pension was not being granted to the petitioner, she approached this Court by filing CWP No. 20281 of 2015, which was disposed of by this court on 23.09.2015 (Annexure P-6). This Court directed the department to take appropriate decision on the legal notice sent by the petitioner herein claiming the family pension after Reena Devi was reportedly missing since January, 2012.

Keeping in view the direction given by this Court, respondents passed an order on 09.02.2016 (Annexure P-7), wherein a decision was taken that as Reena Devi was reportedly not traceable since 27.01.2012, she cannot be treated as dead till a period of seven years has passed and in case after a period of seven years, she is still reported not traceable, the case of the petitioner for the grant of family pension will be considered. The relevant paragraph of the order is as under:-

“So, as per the order of Hon'ble High Court applicant Smt. Karti Devi wife of late Sh. Kartar Singh was called in this office for personal hearing. As per the instruction of the Govt. and decision of this Hon'ble Court in Chanderkanta Sharma Vs. UHBVNL, 2009(2) RSJ-498, D.B. of Punjab & Haryana High Court of dated 27.11.2008 and financial assistance, family pension and salary can be given after a period of seven years of missing and after receiving non-traceable report.”

The petitioner has challenged the aforesaid order claiming the family pension.

Upon notice of motion, the respondents have filed reply and in the reply also, the same stands as stated in the impugned order has been taken that till Reena Devi is declared as non-traceable, no benefit can be

extended to the petitioner.

Learned counsel for the petitioner argues that a period of seven years has already elapsed in January, 2019 but even after the said period, no benefit has been extended to the petitioner. Learned counsel for the petitioner states that petitioner will approach the respondents for the grant of benefit after getting a report from the police that Reena Devi is still not traceable and requests that the respondents be directed now to consider her case for the grant of benefit of the family pension.

Learned counsel for the respondents states that in case a non-traceable report in respect of Reena Devi is submitted by the petitioner, appropriate decision will be taken by the competent authority with regard to the claim of the petitioner for the grant of family pension.

Keeping in view this, the present writ petition is disposed of with a direction to the petitioner to submit the non-traceable report from the police in respect of Reena Devi i.e. the widow of Roshan Lal and in case, petitioner is successful in submitting the said report, respondents will pass appropriate order on the claim of the petitioner for the grant of family pension from the date she became entitled for. The order will be passed within a period of two months after non-traceable report is submitted by the petitioner with the respondents.

Writ petition stands disposed of in the above terms.

May 22, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? *Yes*
Whether reportable? *No*