

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

223

**CWP No.23780 of 2019 (O&M)
Decided on : 28.11.2019**

Jai Singh

... Petitioner

Versus

Government of India and others

... Respondents

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

Present: Mr. S.K. Malik, Advocate
for the petitioner.

Mr. N.K. Vashist, Advocate
for the respondents-UOI.

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks directions to the respondents to release family pension to the petitioner being disabled, on account of death of his father and mother.

Reply on behalf of respondents by way of affidavit of Capt. Anchal Dutt, OIC Legal Cell HQ has been filed. It has been submitted that the petitioner would first have to approach the Armed Forces Tribunal under the Armed Forces Tribunal Act, 2007 (for short 'the Act'). Reference has been made to Section 2 and 3 (o) (i) of the above said Act, which read as under:-

“Section 2

Applicability of the Act--

1) The provisions of this Act shall apply to all persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950).

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

223

CWP No.23780 of 2019 (O&M)

-2-

2. This Act shall also apply to retired personnel subject to the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950), including their dependants, heirs and successors, in so far as it relates to their service matters.

XXXXXXXXXXXXXXXXXXXXX

Section 3 (o) (i) "Service matters", in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include--

(i) remuneration (including allowances), pension and other retirement benefits.”

It is not disputed that the claim herein is regarding the physical disablement, as per the disability certificate and the entitlement to the family pension, on account of the death of the father and the mother. The father was stated to be an ex-servicemen who had served with the Kumaon Regiment.

In such circumstances, the present writ petition is not maintainable and is dismissed with liberty to approach the Armed Forces Tribunal.

NOVEMBER 28, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No