

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

CWP No.27932 of 2019 (O&M)

Date of Decision:27.09.2019

Tara Chand and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Vinod Bhardwaj, Advocate for the petitioners.

TEJINDER SINGH DHINDSA J.

Challenge in the instant writ petition is to the order dated 23.07.2019 (Annexure P-6) passed by the third respondent and in terms of which claim of the petitioners for Old Age Pension has been declined and directions have been issued to recover the amount that the petitioners had already received under such head.

It would be apposite to take note that the petitioners herein alongwith another had earlier filed CWP No.24549 of 2018 raising a grievance that the Old Age Pension which was being paid to them had been discontinued. The writ petition was disposed of on 31.10.2018 by recording the statement of counsel representing the State that the matter would be re-examined and in case it is found that the petitioners are eligible for being granted Old Age Pension, the same would be continued and in the alternate a speaking order would be passed.

Apparently the impugned order rejecting the claim of the petitioners has been passed in purported compliance of the order dated 31.10.2018 passed by this Court while disposing of CWP No.24549 of

2018.

Counsel for the petitioners submits that the State of Haryana has issued Social Security Schemes and under which an Old Age Samman Allowance was also made admissible. It is such allowance that had been granted to the petitioners but only on account of party faction in the village, they have been wrongly shown as ineligible without verifying the factual position. Counsel further contends that the Social Security Scheme issued by the Government is for the welfare of the public at large and technicalities ought not to stand in the way while considering grant of an Old Age Samman Allowance. Yet another submission raised by counsel is that prior to a decision having been taken to discontinue the Old Age Samman Allowance, the petitioners had not been served with any notice and as such the action is in violation of the principles of natural justice.

Counsel for the petitioners has been heard and pleadings on record have been perused.

Perusal of the impugned order would reveal that petitioner No.1 had availed of the Old Age Samman Allowance for the period April 2010 to January 2012 on pension ID No.3065415. Upon conducting of an enquiry at the hands of a specially constituted investigation team it has been found that as per website of the Election Commission, Haryana, age of petitioner No.1 was less than 60 years as per voter list for the year 2019. Likewise, petitioner No.2 had availed of the Old Age Samman Allowance for the period April 2008 to May 2016. During the course of verification it has come-forth that as per birth certificate issued by the District Registrar (Births and Deaths)-cum-Deputy Civil Surgeon, Kurukshetra, date of birth of petitioner No.2 has been mentioned as 27.07.1955. Accordingly, both

the petitioners were found to be below the age of 60 for the periods they had availed of the Old Age Samman Allowance. This is the precise basis on account of which the allowance has been discontinued and recovery of the amount already availed of is sought to be recovered.

The validity of the impugned decision would have to be tested in terms of the conditions contained in the Old Age Samman Allowance Scheme formulated by the State Government and placed on record as Annexure P-1. The relevant extract thereof is as under:-

This is a State scheme under which old persons of Haryana domicile, in the age group of 60 years and above are given Old Age Samman Allowance @ Rs.1,400 per month as per eligibility criteria laid down in the rules of the scheme.

A) Eligibility Criteria:

At present, any person is eligible for the grant of Old Age Samman Allowance if,

i) The person is of age 60 years or more:

ii) The person is domicile and resident of Haryana State; and his/her income from all sources together with that of his/her spouse does not exceed

Rs.2,00,000/- per annum.”

Clearly for a person to be eligible for the grant of Old Age Samman Allowance, there is an age requirement of being 60 years or more and for such person to be domicile and resident of Haryana. Another requirement is for the income of such person from all sources together with that of his/her spouse not exceeding Rs.2,00,000/- per annum.

During the course of arguments counsel has conceded that for

the period both the petitioners had availed of the Old Age Samman Allowance they were less than 60 years. Under such circumstances no infirmity is found in the view taken by the respondent authorities in having discontinued the allowance. Recovery of the benefit already availed of would be a necessary corollary. Petitioners inspite of not being eligible have enjoyed the benefit of Old Age Samman Allowance at the cost of the State exchequer. They must be made liable to refund such amount.

The submission raised by counsel as regards violation of principles of natural justice is also not well founded. In the facts of the present case and as per averments made in the writ petition itself both the petitioners were less than 60 years of age for the period that they have availed of the Old Age Samman Allowance. Such factual premise would be clearly discernible from the age reflected in the memo of parties in the instant writ petition filed on 24.09.2019 as also from the Aadhar Cards placed on record at Annexures P-2 and P-3. Under such circumstances would the principles of natural justice be stretched to such limit so as to hold that an enquiry was necessary and imperative? The answer to such poser has to be negative. In taking such view I would draw support from the following observations made by the Hon'ble Supreme Court in the case of **Managing Director, ECIL, Hyderabad & Ors. V. B. Karunakar & Ors., 1994 (1) SCT 319:-**

“.... The theory reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact,

prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an “unnatural expansion of natural justice” which in itself is antithetical to justice.”.

For the reasons recorded above, there is no merit in the instant petition and the same is dismissed.

It would however be open for the petitioners to approach the concerned authority under the State Government to raise claim for Old Age Samman Allowance upon demonstrating that they now are eligible as per terms and conditions contained under the relevant scheme.

(TEJINDER SINGH DHINDSA)
JUDGE

September 27, 2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No