

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

CWP-37382-2018

Date of decision: 29.4.2019

Harbhajan Kaur

...Petitioner

Versus

Union of India and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Vijay Dahiya, Advocate for the petitioner

JITENDRA CHAUHAN, J.

The present writ petition under Articles 226/227 of the Constitution of India has been filed for quashing the order dated 17.7.1978 issued vide letter No.16/H/92/72 F.F.V (NZ) (Annexure P-4) and order dated 5.4.2018 vide registration No. DOPPW/E/2018/ 02786 (Annexure P-8) vide which the claim of the petitioner has been rejected.

Learned counsel for the petitioner submits that husband of the petitioner was serving in army and was deployed in Egypt in 1940. On the call of Indian leaders during national freedom struggle, he disobeyed the orders and was sentenced by a Summary General Court Martial to 7 years transportation and dismissal from service vide letter dated 16.5.1940 (Annexure P-1). The husband of the petitioner being a freedom fighter had been granted pension vide letter No.16/1/Gen./73 F.F.V dated 23.4.1973 and also allotted PPO No. 877/FF/Cent./ Genl. On request made by her husband for increasing his pension, Ministry of Home Affairs, Govt. of India vide

letter No.16/R/92/72 F.F.V. (NZ) dated 17.7.1978 (Annexure P-4) stopped the pension after observing that sufferings of Sh. Malkiat Singh, the husband of the petitioner, were related to the freedom struggle and the Egypt Mutiny is not recognized for the Freedom Fighters' Pension Scheme. Despite making several communication by her husband to the Ministry of Home Affairs no steps were taken to restore his pension. After his death, the petitioner also made several communication to the Government. Thereafter, vide letter dated 5.4.2018 (Annexure P-8), Department of Pension and Pensioners Welfare, the petitioner was communicated regarding rejection of her claim. The learned counsel for the petitioner refers to Clause 4(a) and 4(f) of Swatantrata Sainik Samman Pension Scheme, 1980 (formerly known as Freedom Fighters' Pension Scheme, 1972) to contend that the husband of the petitioner being the freedom fighter, petitioner is eligible for pension under the said pension scheme.

Heard.

Concededly, Freedom Fighter Pension granted in favour of Shri Malkiat Singh was withdrawn in terms of order dated 17.07.1978 (Annexure P- 4). Conceded position in this case is that petitioner's husband- Malkiat Singh has died in 1989 and during his life-time for a period of 11 years, he chose not to challenge the order dated 17.07.1978.

Freedom Fighter Pension Scheme, 1972 regulates admissibility of grant of pension either to living freedom fighter or to the families, if such freedom fighter is not alive. In the year 1989, when petitioner's husband- Malkiat Singh died, he was no longer drawing freedom fighter pension and as such, present petitioner in the capacity of widow did not fall within the

In view of the above, the present petition being bereft of any merit is dismissed.

[JITENDRA CHAUHAN]
JUDGE

Yes / No

Yes / No