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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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\+ **W.P.(C) 3619/2017**

MEERA DEVI ..... Petitioner

Through: Mr Akshay Vasishtha, Advocate.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr Vikas Mahajan, CGSC for UOI with Mr Aakash Varma, Mr Prajesh V.S., Mr Anil Kumar and Mr Deepak Goyal, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **19.11.2019**

CM 37503/2019 (delay)

1. For the reasons explained in the application, the delay in filing the appeal is condoned and the application is allowed.

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2. The Petitioner has approached this Court, aggrieved by an order dated 3rd November, 2015, issued by the Chief Administrative Officer, Central Record Office, Indo-Tibetan Border Police ('ITBP') Force, rejecting the request of the Petitioner that she be paid extraordinary family pension arising from the death of one of her sons on 28th June, 2005, while he was working as Constable / General Duty ('Ct/GD') with the ITBP.

3. A perusal of the impugned communication dated 3rd November, 2015,

issued by the Respondent No.3, which deals with the Petitioner's legal notice dated 23rd August, 2015, is that as per the applicable pension rules, family pension would be payable to parents "who are wholly dependent on the government servant, when he/she was alive, provided the deceased has left behind "neither a widow nor a child". According to the Respondents, the parents were not eligible for family pension, as they were not dependent on the deceased son.

4. It appears that the Petitioner's husband was indeed a government servant and has, after his retirement, as such, been receiving pension.

5. Although in the present petition it was projected that the deceased son of the Petitioner, Mr Ravinder Chaddha, was the only child, it transpired from the documents appended to the counter affidavit filed by the Respondents, that they have another son Mr Virender Chaddha. After noticing this, by order dated 16th July, 2018, this Court required the Petitioner to file an additional affidavit, confirming this fact. The Petitioner has, pursuant thereto, filed an affidavit confirming that fact. It is stated that the other son, who is presently residing in Kolkata, is married and has two children and he has worked mostly in "automobile related companies". The details of his income have also been set out in the affidavit.

6. Today, during the course of the hearing, learned counsel for the Petitioner has produced before the Court the pension slip issued by the State Bank of India to the Petitioner's husband. It shows the pension for the month of July, 2017, which the Petitioner's husband received a total pension of Rs.20,919/.

7. Learned counsel for the Petitioner has drawn the attention of the Court to Rule 11 (1) of the Central Civil Services (Extraordinary Pension) Rules, as amended in 2011, and which reads as under:

> "11(1) If the deceased Government servant has left neither a widow nor a child, an award shall be made to parent or parents and in the absence of the parent or parents to minor brothers and sisters in accordance with SCHEDULE II hereto annexed if they were largely dependent on the Government servant for support and are in pecuniary need;
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> Provided that the amount of the award to minor brothers and sisters shall not exceed one half of the pension that would have been admissible to the widow under rule 10."

8. The crucial phrase in Rule 11 (1) is 'largely dependent', which is a question of fact. In other words, in order to be eligible for extraordinary family pension, it would have to be shown by the applicant that he/she was 'largely dependent' on the deceased government servant.

9. In the facts of the present case, the admitted position is that the Petitioner's husband was a government servant and has been drawing pension, as has been noticed hereinbefore. The Petitioner's other son is also gainfully employed. In the circumstances, it is not possible for this Court to be persuaded that at the time of death Mr Ravinder Chaddha, who was working as Ct/GD with the ITBP, on 28th June, 2005, the Petitioner was 'largely dependent' on him.

10. Learned counsel for the Petitioner submitted that although the earnings of the Petitioner's husband were available to the Petitioner, she was

invariably meeting all the expenses of the household from the salary of her deceased son. While that may be an internal arrangement of convenience, it would not satisfy the requirement of the Petitioner having to show that she was 'largely dependent' on her deceased son.

11. In the circumstances, the Court is unable to find any illegality having been committed by the Respondents in rejecting the Petitioner's request by their communication dated 3rd November, 2015.

12. The writ petition is accordingly dismissed. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 19, 2019
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