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

+ **W.P.(C) 10311/2015**

SUMAN DEVI

..... Petitioner

Through: Mr. P. C. Misra, Advocate.

Versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Vivek Goyal, CGSC with Mr.
Ram Kishan Advocate for UOI.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

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ORDER
05.09.2019

Dr. S. Muralidhar, J.:

1. On 25th April, 2019 this Court has passed the following detailed order:

“1. This is the second round of litigation by the Petitioner whose husband late Shri Balvinder Singh was working as a Constable (General Duty) with the Central Reserve Police Force (CRPF).

2. On 9th January 2013 at around 1715 hours late Shri Balvinder Singh was purportedly found hanging in a hole with an iron rod by a crepe bandage in a bushy area near a field, down from Dharampur Railway Station in Himachal Pradesh. Three of his colleagues who had accompanied him in a journey from Kalka Railway Station to Dharampur Railway Station supposedly identified him. The cremation was carried out in the village itself at the instruction of the CRPF Commandant.

3. The medical certificate declared that Shri Balvinder Singh had committed suicide. This appears to have been accepted by the Court of Inquiry (CoI) instituted by the CRPF. On that basis, the pensionary benefits were determined and paid to the Petitioner as next of kin (NOK).

4. The Petitioner states that she was not provided the reasons and the circumstances under which her husband had died. Not even the post-mortem report or the report of the CoI was provided to her. She expressed the apprehension that an unnatural death might have been treated as a natural death. While Rs.6.5 lacs was paid to the Petitioner Rs.2.5 lacs was paid to the parents of the deceased.

5. Dissatisfied with the above payments, the Petitioner filed WP (C) 4854 of 2014 before this Court which came to be disposed of on 14th January 2015:

“1. Travelling by train on the Kalka-Shimla Route for reporting to duty, late husband of the petitioner was found dead en-route near the track in a trench. The Court of Inquiry was ordered to give the finding as to the death of the petitioner’s husband. Opinion was that death was suicidal.

2. This has impacted the pensionary benefit payable to the petitioner.

3. In our opinion, the finding of the Court of Inquiry having civil consequences upon the right of the petitioner requires the writ petition to be disposed of issuing a direction that the finding of the Court of Inquiry as also evidence led at the Court of Inquiry proceedings be supplied to the petitioner within 6 weeks from today.

4. It would be open to the petitioner to take action as per law keeping in view the evidence led and the finding returned at the Court of Inquiry.

5. No costs.

6. Dasti to learned counsel for the parties.”

6. Thereafter, the report of the COI was provided to the Petitioner. On examining it, she found numerous inconsistencies therein. These have been set out by her in ground ‘C’ of the present writ petition where *inter alia* it is pleaded as under:

“The petitioner is not satisfied with the finding of the court of inquiry on the following groundpoints.

i. it is admitted that there is no eye witness to see the event of committing suicide by Ct./GD Balwinder Singh.

ii. No. suicide note is left by the deceased.

iii. From the statements of the accompanying four constables i.e. Ranbir Singh, P.K.Rai, Mukesh S. Patil and Sandeep Badhe, it is found that the deceased was in good mental condition and there is no domestic problems against him.

iv. From the report of the police and inquiry report it is stated-that deceased committed suicide by hanging himself putting crape bandages around his neck tied to a hole of a iron gardder near the bush by the side of the railway line. The height of the of pillar is 4 ft. 7 inch and the length of the bandages rope is 3 fit. 7 inch and the height of the deceased is 6 fit. Therefore the allegations that the deceased died due to suicide is not worth believing.

v. It is stated that he left the party at 3.45 p.m. in the railway station Dharampur on 7.1.13 under the plea that he going to pass urine and will be returning soon, but toilets are available inside the train hence the statements of the witnesses are false. In the order it is stated that the

deceased had crape bandages in his hand but there is no statement by the accompanying four constables to this effect.

vi. Though there is alcohol found in the viscera report but alcohol could not be the cause of death. The finding that the death occurred due to asphyxia from obstruction of arterial blood flow to the brain by pressure on carotid artery. The same thing will happen when a persons will be murdered by putting ropes in the neck forcibly.

vii. The questions put all the accompanying four constables witnesses no.1 to 6 are stereo typed. The inquiry officer put suggestive questions whether the deceased had taken drinks, but in the main statement these witnesses did not tell that the deceased had drinks. They stated that the deceased took alcohol during the journey from Delhi to Kalka on 6.1.13. but nobody stated that during the journey from Kalka to Dharampur on 7.1.13 that the deceased had taken drinks. In the questions the inquiry officer failed to suggest whether these four constables or any one of them had taken drinks in the company of the deceased.

viii. It might happen either all the five constables or any of them might have taken drinks during the journey from Ahmedabad to Dharampur from 4.1.13 to 7.1.13 and might have quarrel and the other four might have decided to liquidate the deceased Balwinder Singh since he was party commander. In the inquiries no question is put at what time the left the railway station Dharampur and when their reached to TOT camp and what time again search late in the night of 7/8.1.2013, when the brother-in-law and one relative of the deceased came from Chandigarh and met at TOT camp and details were not given to them. The dead body when found on 9.1.2013 (evening) the body was lying on the ground from waist to legs and the portion of the body from waist to the neck is

one foot distance from the ground. No person of 6 ft height will committed suicide hanging from a poll of 4 ft. 7 inch with a crape bandage length 3 ft 7 inch. It is a manipulated murder case not properly investigated either by the police nor proper inquiry was conducted by the court of inquiry of CRPF. The whole finding by the respondents not worth of belief. The finger can be raised against the four constables who accompanying the deceased and they have not stated the truth before the court of inquiry nor before the police. Rather they have failed to discharge there responsibility and hence the competent authority of the CRPF imposed 7 days line confinement vide order dated 26.7.2013.”

7. The categorical assertion of the Petitioner is that the death of her husband ‘could be on any other ground but not due to suicide.’

8. In the counter-affidavit filed in specific response to ground ‘C’ it is stated as under: ‘the contents of this para are a matter of record. Hence need no comment.’ In other words, all of the apprehensions expressed by the Petitioner and inconsistencies pointed out by her have not been disputed by the Respondents.

9. The Court has also been shown a copy of the report of the CoI. It appears to have essentially proceeded on the post-mortem report prepared by the CHC, Dharampur in Himachal Pradesh. The report of the State Forensic Science Laboratory confirms the presence of ethyl alcohol in the blood. No other poison was found in the body of the deceased. The police report was prepared on that basis. The Court is unable to find any site plan or even rough sketch of the place where the dead body was found, any pictorial representation of the place of occurrence or any photograph. This becomes critical because of the assertion of the Petitioner is that her husband was around 6 ft. tall whereas he was supposed to have been found hanging from a pillar of a height of 4.7 ft. and the length of the bandage/rope was 3.7 ft. making the theory of suicide by hanging entirely

unbelievable. The least that could have been done by the CoI would have been to depute a responsible officer to visit the spot, photograph the place, measure the height and ascertain if it is in fact possible for the 6 ft. tall person to be hanging from that height.

10. This renders the entire CoI report unbelievable. The prayer in the present petition is that the death of her husband should be declared unnatural and the Petitioner be paid an additional compensation of Rs.4 lacs from the risk fund and an additional Rs.10 lacs as *ex gratia* by treating the death to be exceptional and during the course of discharge of duty. Another prayer is for an independent inquiry/investigation into the death of her husband.

11. Since this Court has rejected the report of the CoI, learned counsel for the Respondents seeks time for instructions on what course of action Respondents are proposing to take.

12. At his request, list on 29th May 2019.

13. Copy of the order be given '*dasti*' under signatures of the Court Master."

2. From the facts relating to the filing of the present petition and the conclusions reached by the Court it can be seen that this Court in its order dated 25th April, 2019 rejected the report of the Court of Inquiry (COI). On that date, Mr. Vinod Goyal, learned Counsel for the Respondents sought time for instructions on what consequential action could be taken.

3. Today, Mr. Goyal has placed before the Court a letter dated 5th September, 2019 addressed to him by DIGP (Adm) RAF Headquarters in which after noticing the above order dated 25th April, 2019 it is stated in para 2 and 3 as under:

“2. In this context, it is apprised that the matter has been re-examined by the competent authority with the relevant reports in the instant matter such as post-mortem report furnished by the Medical officer of C.H.C. Dharampur, Distt-Solan (H.P.), Inquiry report of S.H.O. Police Station-Dharampur (H.P.), Sketch of the site, Photographs, State Forensic Science Laboratory report, report of SDM, Solan, (H.P.). It is to mention here that there is no new facts/evidences brought to notice which may indicate to death by any others means other than suicide.

3. Death cases are enquired/investigated by the Civil Police and the COI has to heavily depend on its outcome for deciding the cause of death. The Department is not in position to cover the above case under the criteria for grant of lumpsum Ex-Gratia to the petitioner as in all documents & evidences reports point out that CT/GD Balwinder Singh has committed suicide under influence of ethyl alcohol.”

4. It is thus seen that the Respondents continue to maintain that there are “no new facts/evidences” brought to their notice which would indicate that death is by any mean other than suicide. The Court fails to appreciate how despite the above order dated 25th March, 2019, the Respondents can continue to maintain that no new fact has been brought to their notice to question their theory that the deceased committed suicide. The order dated 25th April, 2019 rejects identical conclusion reached in the COI for the reasons set out in detail in the said order.

5. In that view of the matter, the Court concludes that the husband of the Petitioner did die an unnatural death and it has not been conclusively shown to be a death by suicide. The Court is not persuaded by the plea of the counsel for the Respondents that the matter should again be investigated by

another CIO. This will only result in delaying the matter endlessly. Also with the Respondents appearing to have already made up their mind that there is no new fact/evidence which can persuade them to come to any different view, a fresh COI may end up as an exercise in futility.

6. In that view of the matter, the Court accepts the plea that the death of the Petitioner's husband should be declared as an unnatural death. The Respondents are now directed to pay the Petitioner a sum of Rs.4.00 lakhs from Risk Fund. Further the Court finds that the Petitioner would be entitled to an additional sum of Rs.10.00 lakhs as Ex-gratia in terms of Para 11 of the OM dated 2nd September, 2008 issued by the Department of Pension & Pensioners' Welfare, Ministry of Personnel, Public Grievances & Pensions. The Petitioner would be entitled to this Ex-gratia amount on account of death occurring due to accident in the course of performance of duties. The Court further directs that the aforementioned sum of Rs.4.00 lakhs and Rs.10.00 lakhs (aggregating to Rs.14.00 lakhs) should be paid by the Respondents to the Petitioner not later than eight weeks from today failing which the Petitioner would additionally be entitled to simple interest @ 6% per annum on the above sum for the period of delay in making the payment.

7. The writ petition is disposed of in the above terms. No order as to costs. Copy of the order be given *dasti*.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 05, 2019/ *mr*