

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

202**CWP-3446-2018****Date of Decision :04.03.2020**

Bharpai Devi

... Petitioner

Versus

The Secretary, Ministry of Home Affairs and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.A.Sheoran, Advocate with
Mr. Sushil Sheoran, Advocate
for the petitioner(s).

Mr. Kapil Bansal, DAG, Haryana.

Mr. Alok Kumar Jain, Senior Panel Counsel
for the UOI.

SUVIR SEHGAL, J.

Prayer in the instant petition is for issuance of a writ in the nature of mandamus directing the respondents to grant Freedom Fighters Pension, firstly, to the husband of the petitioner and thereafter to the petitioner from the date it has been granted to other similarly situated persons mentioned in the list of Indian National Army (INA) who served with the husband of the petitioner and also for grant of arrears along with interest.

Facts, in brief, are that Late Sep. Mansa Ram, husband of the petitioner was enrolled in the Punjab Regiment on 06.01.1937 as Sepoy vide No.11108. He served in Malaysia in the 2/15 Punjab

Regiment and later his regiment joined the Indian National Army (INA). He remained prisoner of war from 15.02.1942 to 15.08.1945 in the Japanese Camps. After his return to India, he was discharged on 21.05.1946 vide Annexure P-1. The Army authorities did not record his association with INA and discharged him from service depriving him of any war service benefits. He unfortunately expired on 28.11.2001, Annexure P-4. The list of names of the persons and the regiments who had joined INA, was published and the name of the petitioner's husband was shown at serial No.96 in the list, Annexure P-3. After the formulation of the "Swatantrata Sainik Samman Pension Scheme, 1980" (for short 'Scheme') by the Government of India, application was made thereunder for the grant of Freedom Fighter's Pension. However, for years together the application was not processed. Vide letter dated 07.03.2011, Annexure P-5, Haryana Swatantrata Sainik Samman Samiti (for short 'Samiti') wrote to the petitioner that she may produce the original documents on 16.03.2011 regarding her husband's service. The petitioner took the discharge book and the list of INA personnel to the office of the Samiti but no action was taken. She was later asked to provide two certificates of co-prisoners of her deceased husband, which she duly did. One Duli Chand furnished an affidavit dated 07.06.2012, Annexure P-6 and one Ganpat Ram furnished an affidavit dated 26.08.2014, Annexure P-7 to the effect that they had served with the husband of the petitioner. Despite the fact that all the documents had been furnished, the respondent No.3 did not send the case of the petitioner for grant of freedom fighter's pension to respondents No.1 and 2.

Ministry of Home Affairs, Government of India, respondents No.1 and 2, in their reply have submitted that the petition has been filed 17 years after the demise of the husband of the petitioner and is therefore highly belated. They have further submitted that the husband of the petitioner had never applied for the grant of pension under the Scheme. As such, the case for grant of pension under the said scheme cannot be considered. Still further, the said respondents have placed reliance upon Para 1.5 of the Revised Guidelines dated 06.08.2014 (Annexure R-1/2) to the effect that no pension can be sanctioned in favour of a freedom fighter after his/her death even if his matter is under consideration. Respondent No.3 i.e. the State of Haryana has filed a separate reply contesting the claim of the petitioner on almost identical lines. However, they have admitted that the list of INA personnel Annexure P-3 in which the name of the husband of the petitioner appears.

From the above it is therefore, apparent that even though the application for grant of pension had been submitted by the petitioner to respondent No.3 but the same was still pending before it and had not been processed and forwarded by respondent No.3 to respondents No.1 and 2 for grant of the pension under the Scheme.

In CWP No. 1554 of 2018, **Chand Kaur Versus Secretary, Ministry of Home Affairs and others**, decided by this Court today, reliance placed by the respondents on Paras 1.5 and 5 of the Guidelines dated 06.08.2014 have been repelled and it has been held that in the case of deceased freedom fighters, his/her eligible dependant will be entitled to dependant pension from the date the application in this regard was

moved. It has been further held that the role assigned to the State Government under the Scheme is to ensure that the application submitted in the prescribed performa is complete in all respects and verify and forward it with its report to the Central Government. The State Government is not authorized to take any decision on the application.

Consequently, a direction is issued to respondent No.3 to verify the application submitted by the petitioner and forward the same to respondents No.1 and 2 with its report within a period of four weeks from the date of receipt of certified copy of this order. Considering the fact that the petitioner is more than 89 years of age, respondents No.1 and 2 are directed to consider and decide the application so received, within a period of four weeks thereafter and grant pension, if the petitioner is found eligible and entitled thereto from the date of submission of the application with arrears along with interest @ 9% per annum.

With these observations, the writ petition stands disposed of.

04.03.2020

pooja saini

**(SUVIR SEHGAL)
JUDGE**

Whether speaking/reasoned? Yes

Whether reportable? Yes