

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

203

CWP-4420-2018

Date of Decision : 0403.2020

Kamla Devi

... Petitioner

Versus

Union of India and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Mr. Kapil Bansal, DAG, Haryana.

Mr. Chander Mohan Sharma, 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 and also for grant of arrears along with interest.

Facts, in brief, are that Late Sep. Harphul Singh, husband of the petitioner had joined as Sepoy vide No.8676 Ist Bahwalpur Infantry and served in the Punjab regiment. He was enrolled on 09.05.1930 and was discharged on 18.02.1946. The reason for discharge was that he was a member of the Indian National Army (INA) and it is so mentioned in

the Sheet Roll for combatants dated 14.09.1968, Annexure P-1. The petitioner's husband unfortunately expired on 28.08.1992. The details of service particulars of the Harphul Singh have been attached with the writ petition as Annexure P-2. The petitioner had through out been trying to get the benefit of Freedom Fighter's Pension under the "Swatantrata Sainik Samman Pension Scheme, 1980" (for short 'Scheme'). She had applied under the said scheme in July, 2013 but neither her case was sent to the Union of India, respondent No.1 nor was it processed by the Government of Haryana, respondent No.2. The documents submitted by the petitioner stood duly verified as is apparent from the reply dated 08.07.2014, Annexure P-4, received from the Haryana Swatantrata Sainani Samman Pension Samiti. Every time the petitioner approached respondent No.2, she was informed that the committee was yet to be constituted. She applied under the Right to Information Act, 2005, and vide memo dated 27.08.2015, Annexure P-5, she was informed that the case had been taken up as many as 12 times by the committee but was not finalized. Since the case remained pending with respondent No.2, the petitioner filed the instant writ petition.

Respondent No.1, Union of India has contested this writ petition by relying upon Paras 1.5 and 5 of the Revised Guidelines dated 06.08.2014. Further stand is that the petitioner has approached this Court after more than 25 years of the death of her husband. Still further it has been submitted that the case of the petitioner for pension has not been received by it and that the husband of the petitioner never applied for pension under the Scheme. In a separate reply, respondent No.2 has also

relied upon Para 1.5 of the Revised Guidelines, Annexure R-1, to contest the claim of the petitioner.

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.2 but the same was still pending before it and had not been processed and forwarded by respondent No.2 to respondent No.1 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 is 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.2 to verify the application submitted by the petitioner and forward the same to respondent No.1 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 77 years of age, respondent No.1 is 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/No

Whether reportable?

Yes/No