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**WPCRC 19 of 2021
In
WPA 5585 of 2019**

**Smt. Chanchala Hazra
Versus
T. Srinivasan**

(Via Video Conference)

Mr. Ramdulal Manna,
Mr. Swapan Kr. Mallick,
Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee

...for the petitioner

Mr. D.N. Roy,
Mr. Sanjoy Ghosh

....for the alleged contemnor

Mr. T. Srinivasan, the alleged contemnor
is present in Court.

I have heard Mr. Manna, learned counsel
appearing for the writ petitioner and Mr. Roy for
the Union, at length.

This Court is conscious of the fact that
under normal circumstances, in a contempt
application, orders clarifying orders in the main
writ petition or issues afresh are not dealt with.
This Court, however, proceeds with the matter in
view of the arguments of the Union in the context
of the Circular of the Ministry of Home dated
August 6, 2014 and the decisions cited by the
parties. The interpretation and application of the

said Circular have become germane to the contempt application itself. This Court proceeds to adjudicate the applicability of the Circular, also because a widow of a freedom fighter pensioner has come before this Court alleging impropriety on the part of the Union.

The contemnor has filed an affidavit of compliance of the order dated January 2, 2020. By the said order this Court had directed the Under Secretary, Government of India, Ministry of Home Affairs, Freedom Fighters' Division to process the application for pension of the petitioner. The Union has processed the same and found the petitioner to be eligible for pension as spouse of a freedom fighter pensioner one Niranjana Hazra and has issued Pension Payment Order on February 14, 2020. It was ordered that the pension would be payable to her from 02.01.2021.

Admittedly, the husband of the petitioner died on October 23, 2015. It is submitted by Mr. Manna that the petitioner went to the Bank and intimated them in October 2015 itself whereupon the Bank immediately stopped pension from October 2015.

Mr. Manna submits that the respondents are still in contempt since his client's spouse pension ought to have started from November 2015 after the death of her husband.

Counsel for the Union relies upon Clause 5.2 of the revised policy guidelines for disbursement of Central Samman Pensions dated 6th August, 2014, which is set out herein below.

5.2: Transfer of Pension to Spouse/Daughters:-

After the death of the pensioner (whether freedom fighter himself or his spouse) the transfer of pension to the spouse/daughter will only be considered if she applies for transfer of pension within 6 months of the death. Application received after 6 months shall not be considered by the Bank but referred to the Ministry. The Ministry shall then take a view whether to allow dependent pension or not or whether any arrears are to be paid.

It is submitted by Mr. Roy that the petitioner was required, within 6 months from the date of death of her husband, to intimate the respondents of the same producing the Death Certificate and claim spouse pension. Not having done so, the petitioner cannot claim any pension from November 2015.

The admitted facts are that the Bank has stopped pension on account of the pensioner's husband in November 2015.

Lawyers on behalf of the petitioner addressed a demand notice to the Union in December 2018. The petitioner has been allowed spouse pension with effect from January 2020 essentially placing reliance upon Clause 5.2 of the aforesaid Circular of 2014.

This Court has noted the decision of a Division Bench of this Court in the case of **Union**

of India & Ors. vs. Smt. Sadhana Bala Dhara & Ors. reported in **(2017) 4 WBLR (Cal) 491**. The facts of the said case indicate that it was a claim for pension made by a freedom fighter for the first time that came to be rejected. The claim was pursued by the spouse after the freedom fighter died in course of the litigation. The Court had observed at paragraph 5 that the revised policy guidelines for disbursement of Central Samman Pensions of 6th August, 2014, would not apply to a pending application for such pension.

This Court notices that although the original pensioner had mentioned the name of the petitioner as his wife in the application for pension, the Pension Payment Order issued to him, did not reflect the same.

It is only after directions from this Court in the instant writ application that the respondents proceeded to enquire and found that the petitioner is the wife of pensioner and hence spouse under the Freedom Fighters' Pension Scheme.

Having thus found in favour of the petitioner, the order dated February 24, 2021 was issued by the Respondents.

This Court is unable to accept the contentions of the respondents that the petitioner would be entitled to pension only with effect from

January 2, 2020. Admittedly, the freedom fighter's pension is a special scheme allowed by the Central Government to acknowledge the contribution of a class of persons who were responsible for securing independence of the country. The said Special Pension Policy, must be understood in the context of its objects and purposes i.e. for honouring freedom fighters and to show gratitude to them and their families. Hence the strict application of Clause 5.2 against the petitioner in the instant case, would defeat the object and purpose of the scheme itself.

The Union itself has recognized the petitioner as a lawful wife and widow of the deceased pensioner Mr. Niranjan Hazra. To, therefore, allow pension to the petitioner only from January 2, 2020 would be unjust, unfair and inequitable.

The Union may be justified in saying that they or the Bank concerned have not received an application or notification or intimation of the death of late Niranjan Hazra within 6 months in terms of Clause 5.2 of the said Circular. It is, however, equally true that the Bank had stopped paying pension from November 2015 and the Union admittedly, after undertaking the exercise under the Scheme, has found the petitioner to be a lawful payee of spouse pension.

Giving a beneficial interpretation to the Scheme in the context of the objects and purposes sought to be achieved by it, this Court is of the view that the petitioner ought to be allowed spouse pension from the date of death of her husband. The petitioner would, therefore, be entitled to pension from October 1, 2015.

Since this Court was required to interpret the order dated January 2, 2020, in the context of the Circular dated 6th August 2014, the decision of a Division Bench of this Court (*supra*) and the submissions of the Union, it is held that there is no contempt. Rule is discharged.

This Court acknowledges with appreciation the contributions made by Mr. T. Srinivasan in the matter.

The respondents shall pay arrears of pension to the petitioner from October 2015, within a period of 3 months from the date of communication of a copy of this order.

The Punjab National Bank (formerly United Bank of India), Garkamalpur Branch, P.O.-Mahisadal, West Bengal shall release current pension to the petitioner after she complies with all the formalities, as expeditiously as possible but not later than 15 days from the date of receipt of a copy of this order.

With the aforesaid directions, the contempt application is disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)