

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-60-2021(O&M)

Date of Decision: 01.03.2021

The Secretary, Ministry of Home Affairs and another --Appellants

Versus

Smt. Chand Kaur & another

--Respondents

**CORAM:- HON'BLE MR.JUSTICE AJAY TEWARI.
HON'BLE MR. JUSTICE RAJESH BHARDWAJ.**

Present:- Mr. Satyapal Jain, Addl. Solicitor General of India with
Mr. Shivoy Dhir, Senior Panel Counsel for the appellants.

Mr. R.A. Sheoran, Advocate for respondent no.1.

Mr. Vivek Saini, Addl. A.G., Haryana for respondent no.2.

RAJESH BHARDWAJ.J

The present appeal has been preferred against the order of learned Single Judge dated 4.3.2020 passed in CWP-1554-2018 wherein under the “Swatantrata Sainik Samman Pension Scheme, 1980” (herein after to be referred to as the Scheme), the petitioner/respondent no.1 herein was granted Freedom Fighter's pension in accordance with the provisions of the Scheme.

Respondent no.1 herein, who is widow of Late Sh. Sultan Singh, filed the petition i.e. CWP-1554-2018, wherein she challenged the order dated 27.12.2017 passed by the Chief Secretary, Haryana declining her claim for the grant of Freedom Fighters Pension.

As per the factual matrix, husband of respondent no.1 namely Late Sh. Sultan Singh was enrolled as a Gunner in the Reg/Corps vide no.A.A.A/5098 in the Army on 05.04.1941. It has been further contended that while he was in service his regiment joined Indian National Army

(INA) after the fall of Singapore on 15.02.1942 and they were ordered by the then G.O.C-in-Chief, INA and deployed at Brendon in Sumatra. They were required to man the Anti Aircraft Guns (A.A. Guns) to defend the oil refinery at Brendon. Respondent no.1 had appended the discharge certificate along with the petition as Annexure P-1, which reflects the date of enrollment of her late husband Sh. Sultan Singh as 5.3.1941 and date of discharge as 23.6.1946. Respondent no.1 contended that the Govt. of India had formulated the Scheme, which was amended in the year 1990. It was further asserted that Govt. of India constituted a Committee to review the cases of INA and on the basis of the recommendations of this Committee dated 25.4.1988 the names of 64 Anti Aircraft Artillery Gunners were recommended for the grant of Freedom Fighters Pension. This list was approved by the Govt. in December, 1990 and a copy of the same stands annexed as Annexure P-5 with the petition. It has been categorically submitted that the name of husband of respondent no.1 herein was at Sr. No.57 in the list of 64 recommended persons. State of Haryana i.e. respondent no.3 in the petition, filed the reply and the claim of the respondent no.1 was declined on the parameters of provisions of para 1.5 of the relevant guidelines saying that on the strength of the same respondent no.1 does not fulfill the eligibility conditions as per the mandate of the Scheme and thus declined here claim vide impugned order dated 27.12.2017.

We have heard learned counsel for the parties at length and perused the records made available.

Learned senior counsel representing the appellants has placed on record a fresh order dated 26.2.2021 regarding rejection of the claim of

respondent no.1 herein.

We have perused the provisions of the Scheme carefully and the findings of the learned Single Judge. A bare perusal of the Certificate of Service clearly shows the date of joining of the late husband of the respondent no.1 as 15.2.1942 and the date of discharge as 23.6.1946. As per findings of the Review Committee of the Govt. of India dated 19.1.1988 the case of late husband of respondent no.1 and the similarly situated persons were revisited and in pursuance to the same, 64 persons of the Anti Aircraft Artillery Gunners, who joined INA were considered and recommended. The husband of the respondent no.1/petitioner found his place at Sr. No.57 in the same. Though, Govt. of India approved this list on 10.12.1990 but unfortunately husband of respondent no.1/petitioner expired on 24.12.1990 and hence he could not pursue his well deserved claim. The facts and circumstances of the case clearly reveal that respondent no.1 is an old aged widow and could not have been expected to pursue the claim. Thus, the ground of delay alleged by the respondents is totally meaningless. Respondent no.1 had mentioned the names of the similarly situated persons namely Umrao Singh, Sultan Singh and Prabhu Dyal, who were receiving the pension under the Scheme. The rejection of the claim of respondent no.1 by the State authorities on the basis of paras 1.5 and 5 of the relevant guidelines has been interpreted the Hon'ble High Court of Kerala which has been relied upon by the learned Single Judge also and the perusal of the same does not dilute the claim of respondent no.1. The latest order placed on record by the learned Addl. Solicitor General of India representing the appellants herein dated 26.2.2021 does not disclose any new ground for the rejection of the claim of the respondent no.1 and is a verbatim copy of the

earlier rejection order.

Keeping in view the overall facts and circumstances of the case, we find no justification in the stand taken by the appellants in declining the benefit of Scheme to respondent no.1 and hence are totally in agreement with the findings arrived at by the learned Single Judge. Thus, the appeal being devoid of any merit, is hereby dismissed.

Appeal dismissed.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

01.03.2021
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No