

Sr.No.101

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

CWP No.4401 of 2021

Date of decision:24.02.2021

Sardar Charan Singh and others

... Petitioner(s)

versus

Union of India and others

... Respondent(s)

Coram: Hon'ble Mr. Justice Jaspurpreet Singh Puri

Present: Mr. Anmol Verma, Advocate
for the petitioners.

Through Video Conference

Jaspurpreet Singh Puri, J.(Oral)

Present petition has been filed under Article 226/227 of Constitution of India with a prayer for issuance of writ in the nature of mandamus seeking directions to the respondents to release/allot 20 acres of land to the petitioners who are stated to be legal heirs of Ex-Army Sepoy Gurnam Singh who died on 28.12.1966 during Army Duty in Field Service, in the interest of justice, law and equity.

Learned counsel for the petitioners has submitted that the father of the petitioners was serving as Sepoy in the Army as he joined Indian Army on 19.09.1952 in Sikh Regiment, lastly served with 16th Battalion of Sikh Regiment and was declared discharged from Army service when he died on 28.12.1966 and in his discharge documents the reason of death was

recorded that he died during the Field Duty on account of injuries sustained in an M.T. Accident. Learned counsel has submitted that the father of the petitioners namely, Gurnam Singh when he was alive, he had moved a request letter vide Annexure P-1 dated nil/October, 1964 seeking allotment of land to him. In this letter he had stated that he was completing his 15 years of service on 19.09.1967 and could be retired from service on that date, therefore, he had become eligible for allotment of land under the scheme and had requested the Deputy Commissioner, District Ambala to register his name for the same. Vide Annexure P-3 dated 08.03.1967 the concerned Officer commanding forwarded the request of the mother of the petitioners to the office of Records, The Sikh Regiment Meerut Cantt for necessary action. Thereafter, vide Annexure P-4 dated 16.03.1967 the office of Commander Signals again wrote to the Deputy Commissioner, Meerut , U.P by stating that the deceased had no land or other property on which the family can live and there is no other source of help for them and stated in the letter that in view of the above, some land can be allotted under Ganga Khadar Colonisation Scheme. Further vide Annexure P-5 dated 30.03.1967 the mother of the petitioners made a request for arrangement of an amount of Rs.6,000/-or Rs.7,000/- from the Welfare Fund as she was passing through difficulties and thereafter, her request was sent to the concerned quarters. Vide Annexure P-8 dated 05.05.1967 the request of the mother of the petitioners was sent to the Chief Minister's Secretariat, Haryana for necessary action. Vide Annexure P-9 dated 16.05.1967 letter was sent from the Secretary, Haryana State Soldiers Sailors and Airmens Board to the Deputy Commissioner and President, District Soldiers Sailors Airmen's Board, Ambala so that the matter can be looked into and maximum help may

be provided to the mother of the petitioners. Thereafter, vide Annexure P-10 dated 31.05.1967 letter was written from the officer Incharge Records, Meerut Cantt to the mother of the petitioners by stating that her request for financial assistance was considered and her family pension claim has been accepted but she cannot be granted financial assistance out of the Army Central Welfare Fund which is purely meant for those destitute ex-servicemen or their dependents who are unable to earn their livelihood.

Petitioner No.1 is stated to be son of the deceased Sepoy and petitioners No.2 and 3 are stated to be daughters of the deceased Sepoy. The widow of the deceased Sepoy who was the mother of the petitioners also died on 20.05.1999. The petitioners now claim to be legal heirs of the widow of the deceased and in the year 2017 they served the legal notice claiming that they are entitled to get the land and financial assistance as per the Central/State policies to the Army Shaheed(Martyr). In the year 2017 vide Annexure P-14 dated 24.10.2017 a letter was written from the Welfare Officer, District Sainik and Ardh Sainik, Welfare Department, Yamuna Nagar to the Record Officer, Records the Sikh Regiment by stating that one Charan Singh stated to be the step son of the aforesaid Sepoy Gurnam Singh who had stated that Gurnam Singh had got the status of Martyr and was allotted 20 acres of land, therefore, information was sought in this regard. Thereafter, vide Annexure P-15 dated 26.12.2017 the Record Officer confirmed that Sepoy Gurnam Singh who died on 28.12.1966 was not a Martyr. The petitioners again served another legal notice seeking allotment of 20 acres of land in terms of a policy. Thereafter, the Records Officer replied to the aforesaid legal notice in which it was stated that the Army

Central Welfare Fund was maintained purely for helping the destitute ex-servicemen or their dependants who are unable to earn their livelihood or have no source of income and at that time late Smt. Surjit Kaur(mother of the petitioners) was in receipt of family pension of Rs.62.00 per month and her yearly income from land and other sources was Rs. 50.00 per year, therefore, it was regretted to State that the financial assistance could not be granted to her. So far as the claim for allotment of land was concerned the reply stated that in the year 1967 it was not assured by any of the authorities or department to Smt. Surjit Kaur regarding any type of allotment of land and as per the petition of above named lady, dated 30.03.1967 it was only a request/approach by her to allot land to her respect sympathetically. Even vide Annexure P-20 dated 02.07.2018 the office of the Additional Chief Secretary and Financial Haryana had replied to the legal notice in which it was informed to the counsel for the petitioners that according to the instructions of the Central Government dated 15.06.1964 and 25.04.1967, the waste land is provided to serving and retired soldiers but these instructions are given by the Land Revenue Branch of the Revenue Department and under this, no land has been provided to any serving or retired soldiers. Apart from this, according to the reports received from all the Deputy Commissioner of Haryana State, the waste land is not available anywhere in Haryana.

Mr. Dheeraj Jain, Advocate has caused appearance on behalf of respondents No.2 and 5 and has submitted that he has received advance copy of the present petition and has opposed the present petition on the ground that there

is an unexplained delay in filing the present petition and further more, no legal right vests in the petitioners.

I have heard the learned counsel for the petitioners and respondents No.2 and 5.

The doctrine of *Vigilantibus et non dormientibus jura subveniunt* (law assists only those who were vigilant and not those who sleep over their rights) can be aptly applied in the present case even assumingly any right exists. The father of the petitioners died in the year 1966 and the present petition has been filed after a period of 53 years of his death. The mother of the petitioners also died in the year 1999. Now the petitioners who are stated to be of the age of 53 years, 55 years and 46 years appear to have filed the present petition in order to capitalise from the documents which have been attached with the present petition. A perusal of the communications as attached with the petition would show that nowhere either the State Government or the Central Government or any other authority had assured or allotted any land to the father of the petitioners. Furthermore, the petitioners have not been able to show whether any legal right was vested in the father of the petitioners or not. Neither any policy nor any guidelines nor any assurance has been shown by the petitioners in the present petition. For invoking jurisdiction under Article 226 of Constitution of India, there has to be legal right vested in the petitioners in such like petitions. Apart from this, vide Annexure P-15 it has been stated by the Record officer that the father of the petitioners was not Martyr but he had died in MT accident. The situation could have been different in case the mother of the petitioners had asked for any financial assistance even at this

stage but unfortunately she has also died in the year 1999 and now the petitioners who have themselves crossed the age of 50 years at this stage cannot invoke the jurisdiction of this Court by filing the present petition in the absence of any legal right.

Consequently, the present petition is devoid of any merit and the same is hereby dismissed. However, there shall be no order as to costs.

24th February, 2021

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No