

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
220 (PROCEEDINGS THROUGH V.C.)**

**LPA-2065-2019 &
CM-4754-LPA-2019
WITH CM-1914-LPA-2020**

Date of decision: 26.10.2021

UNION OF INDIA AND ANOTHER

...APPELLANTS

V/S

CHAJJU RAM (SINCE DECEASED) THROUGH LRS AND ORS

..RESPONDENTS

***CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA***

Present: Mr. Satya Pal Jain, Additional Solicitor General of India,
with Ms. Tanvi Jain, Advocate,
for the appellants.

Ms. Tanisha Peshawaria, DAG, Haryana,
for the State.

Mr. S.S.Dinarpur, Advocate,
for the private respondents.

AUGUSTINE GEORGE MASIH, J.

LPA-2065-2019

Challenge in this appeal is to the judgment dated 17.07.2018
passed by the learned Single Judge whereby writ petition preferred by
Chajju Ram (since deceased) seeking quashing of the decision dated
11.01.2012 (Annexure P-14) rejecting his claim by The Director, Freedom
Fighters Division, Ministry of Home Affairs, Government of India, New

Delhi-respondent No. 2 stands challenged, which was allowed vide the impugned order relying upon the judgment passed by this Court in CWP No. 12309 of 2009, decided on 16.09.2010 (Annexure P-4), which was preferred earlier by the said deceased Chajju Ram observing that his claim was squarely covered by the said judgment.

2. It is the contention of the learned Additional Solicitor General that writ petition i.e. CWP No. 1797 of 2012 was preferred by Sh. Chajju Ram which was dismissed for non-prosecution by the learned Single Judge vide order dated 01.08.2017. Petitioner moved an application bearing C.M. No. 11337-CWP-2018 dated 09.08.2017 praying for recall of the order dated 01.08.2017 and restoring the writ petition which came up for hearing before the learned Single Judge on 19.04.2018 when the same was allowed restoring the writ petition to its original position and number. These facts were not known to the appellants and, therefore, on the date when the writ petition was taken up for hearing i.e. 17.07.2018, counsel for the appellants could not put in appearance before the learned Single Judge leading to the passing of the impugned judgment dated 17.07.2018 ex-parte.

This order was challenged by the appellants by filing LPA No. 468 of 2019 along with an application for condonation of delay i.e. C.M. No. 1101-LPA-2019 which came up for hearing before a Division Bench on 28.02.2019. Various grounds were taken in the appeal on merits as to why the respondent in this appeal was not entitled to the claim of freedom fighter's pension from the appellants apart from the aspect of ex-parte judgment. The Court was pleased to condone the delay of 142 days and permitted withdrawal of the appeal with liberty to approach the learned Single Judge by way of a review application as it was asserted that none of

the grounds, which have been taken by the appellants for rejecting the claim of the respondent-Chajju Ram, had been considered or even taken note of.

3. RA-CW-151-2019 was preferred by the appellants as per the liberty granted by the Division Bench for review of the judgment dated 17.07.2018 which came up for hearing before the learned Single Judge on 22.08.2019 when the same was dismissed by observing as follows:-

“ Heard.

No case to review the judgment dated 17.07.2018 passed by this Court is made out.

Dismissed.”

4. In these circumstances, appellants have filed the present appeal challenging the initial order dated 17.07.2018 passed by the learned Single Judge as also the order dated 22.08.2019 whereby the review application has been dismissed.

5. Learned senior counsel for the appellants submits that because of the reason that earlier the writ petition has been dismissed for non-prosecution which led to the respondent-petitioner having filed an application for restoration which was allowed vide order dated 19.04.2018 which factum was not to the knowledge of the appellants, because of which, the appellants could not put in appearance before the learned Single Judge, the stand of the appellants could not be projected before the learned Single Judge leading to the passing of the impugned judgment.

6. Counsel further contends that the learned Single Judge has simply proceeded to rely upon the decision given by this Court in an earlier writ petition preferred by Sh. Chajju Ram i.e. CWP No. 12309 of 2009, decided on 16.09.2010 (Annexure P-4). No merits of the present case have

been mentioned or discussed. Apart from that, referring to para-16 of the said judgment, counsel for the appellants has pointed out that the orders passed by the State of Haryana rejecting the claim of the respondent-Chajju Ram were set aside and the State of Haryana was directed to grant the status of 'freedom fighter' to Sh. Chajju Ram and release the due pension to him as per the State policy besides recommending his case to the Union of India for grant of freedom fighter's pension by the Central Government. There was, however, a rider therein that this shall, however, be subject to the liberty to the State Authorities to verify the correctness and genuineness of the affidavits given by the co-prisoners of the petitioner, if so desired, within a period of one month on receipt of a certified copy of the order.

7. Learned counsel for the appellants has further argued that the learned Single Judge has relied upon the observations of the Court in para-13 of the judgment dated 16.09.2010 (Annexure P-4) to conclude that the affidavits furnished by the co-prisoners, namely, S/Shri Bansi Lal Sharma and Amar Nath were fully established, which conclusion of the learned Single Judge is erroneous for the simple reason that had it been so, there was no reason for the Court to have observed as mentioned above in para-16.

8. That apart, his contention is that the review application, which has been preferred by the appellants, detailed the reasons as to why the claim of the respondent-Chajju Ram had and could not be accepted by the Central Government as per its Policy which was distinct and independent of the State Policy. None of these aspects have been dealt with by the learned Single Judge in the order dated 22.08.2019 passed in the review application.

Prayer has, thus, been made for setting aside the impugned judgment dated

17.07.2018 and order dated 22.08.2019.

9. On the other hand, learned counsel for the contesting respondents contends that the judgment passed by the learned Single Judge is fully justified as in the considered view of the learned Single Judge, the case of the respondent-Chajju Ram was fully covered by the ratio of the judgment dated 16.09.2010 (Annexure P-4) passed by this Court in CWP No. 12309 of 2009. He, however, was unable to point out from the judgment dated 17.07.2018 passed by the learned Single Judge that the grounds, which have been taken by the appellants for not accepting the claim of the respondent-Chajju Ram, have been either referred or dealt with. He also could not dispute the fact that the Policy of the State and that of Centre were separate and different.

10. Having considered the submissions made by the learned counsel for the parties and on going through the impugned judgment, the order of review as also the pleadings, we are of the considered view that the judgment passed by the learned Single Judge deserves to be set aside as the same does not deal with any of the reasons/grounds assigned by the appellants for not accepting the claim of the respondent-Chajju Ram.

11. Further, it may be pointed out that the claim, which has been made by the respondent-Chajju Ram under the Scheme of the Centre, is under a different scheme than the one under which the said respondent has been granted the benefit by the State of Haryana. The requirements under the two schemes are also different apart from the factual aspects which are not being gone into. We do not want to comment any further in the light of the order which we propose to finally pass least interest of any of the parties is adversely affected by any of our observations.

12. We, therefore, allow the present appeal and set aside the impugned judgment dated 17.07.2018 and order dated 22.08.2019 and remand the case to the Hon'ble Single Judge for fresh decision by giving an opportunity of hearing to both the parties.

13. Registry is directed to list the writ petition before the Hon'ble Single Bench as per roster on 17.11.2021 on which date counsel for the parties have stated that they would put in appearance.

CM-4754-LPA-2019 & CM-1914-LPA-2020

In view of the disposal of the main appeal, these applications have been rendered infructuous and the same are disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

October 26th, 2021

pj

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No