

04.02.2022  
Court No.13  
Item No.23  
AP

**WPA 19818 of 2021**

**Purnima Bhunia @ Purnima Bhunya  
Vs.**

**The Union of India and Ors.**

(Through Video Conference)

Mr. Ramdulal Manna

Mr. Sayan Mukherjee

... For the Petitioner.

Mr. Avinash Kaknani

... For the Union of India.

The short question for consideration in this matter is as to whether a widow daughter, even if not mentioned in the list of dependents of a pension holder, is entitled or not to such pension upon the death of the former.

The facts of the case are otherwise undisputed. The writ petitioner has been living with the deceased mother who was receiving widow pension on account of death of her husband freedom fighter. The writ petitioner was at all material times taking care of his mother and since after the death of her mother is left alone without any source of income. The petitioner remains unmarried after the death of her husband.

She has applied for pension as dependent of her late father as well as her mother since after the death of her husband. The respondents relying upon the definition of eligible dependents set out in Clause 3 and 4 of the Swatantrata Sainik Samman Pension Scheme, 1980 formally known as Freedom Fighters' Pension Scheme, 1972 have declined the petitioner's prayer for pension. It is contended that divorced and widow daughters are not

entitled to receive pension on account of the death of the original pension holder as they are not treated as eligible dependents.

Respondents have used affidavit-in-opposition and have vehemently opposed the claims of the petitioner.

This Court notices that by a judgement and order dated 7<sup>th</sup> April 2021 in WPA 13806 of 2019 (***Sonali Hatua Giri Vs. Union of India and Ors.***) a coordinate Bench has struck down as ultra vires the refusal to recognized married and/or widow daughters as eligible dependents for pension. It is held that the aforesaid pension scheme of 1980, to the extent that it disentitles divorced and widow daughters to pension is ultra vires the Constitution of India.

This Court is in complete agreement with the view expressed by the coordinate Bench of this Court in ***Sonali Hatua Giri (supra)***. It would be also relevant to note that a Division Bench of the Punjab and Haryana High Court in ***Smt. Khejni Devi Vs. Union of India and Anr.*** has also expressed similar view that the said rule denying pension to divorced and widow daughters and holding that they are not dependent under the aforesaid scheme of 1980 is ultra vires the Constitution of India. A Special Leave Petition (Civil) challenging the said decision of the Punjab and Haryana High Court has been dismissed by the Hon'ble Supreme Court on 27<sup>th</sup> September 2019 under Diary No.17706 of 2017. A review petition therefrom being Diary No.8205 of 2020 has also been dismissed by the Hon'ble Supreme

Court dated 19<sup>th</sup> January 2022. A Curative Petition (C) No.181 of 2021 is pending.

In the light of the above, this Court is of the unequivocal view that the writ petitioner is entitled to pension on account of the death of her mother late Draupadi Maity wife of late Haripada Maity freedom fighter.

The writ petitioner shall be entitled to pension on and from July 2020. The respondent shall release pension to the petitioner upon receipt of a copy of this order. All arrears of the writ petitioner from July 2020 till date shall be payable to the writ petitioner within a period of two months from the date of communication of a copy of this order.

The writ petitioner shall communicate the particulars of her bank account to the respondents by a letter or communication enclosing a copy of this order.

In the facts and circumstances, however, this Court is not inclined to award interest on the arrears of the pension.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**