

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

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CWP No.15183 of 2022

Date of decision : 08.09.2022

Dharam Pal Choudhary

....Petitioner

V/s

The Principal Secretary to Government of Haryana Sainik and
Ardh Sainik Welfare Department and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Petitioner-in-person.

Ms. Nidhi Garg, AAG Haryana.

VIKAS SURI, J. (Oral)

The grievance raised by the petitioner in this petition under Article 226/227 of the Constitution of India primarily is that the disability pension of the petitioner was stopped without any intimation and despite numerous requests, the said benefit is not being released to the petitioner without any rhyme or reason and as such the petitioner is being subjected to harassment. The petitioner was sanctioned financial assistance in the shape of disability pension at the rate of Rs.1500 p.m. w.e.f 01.05.2016, which was subsequently revised as per Instructions issued vide Memo dated 29.10.2016 (Annexure P-2). In the backdrop of above noticed circumstances, a writ in the nature of mandamus has been prayed for seeking directions to the respondents to release the disability pension benefit along with arrears for about 4 years with 12 per cent interest.

On notice, the official respondents put in appearance at the preliminary hearing itself and sought time to seek instructions. On the said date i.e. 18.07.2022, the official respondents were also directed that in case,

any formalities are required to be completed at the end of the petitioner, he be intimated within a week and needful be done thereafter. Thereafter, on 18.08.2022, the following order was passed:

“Present : Petitioner in person.

Ms. Nidhi Garg, AAG Haryana.

Learned State counsel prays for more time to comply with order dated 18.07.2022. She is not in a position to assist the Court with the information whether any formality is required to be completed at the end of the petitioner or the same has been intimated to him as directed by the earlier order. This Court is inclined to award exemplary costs in the present situation. However, it refrains from doing so on the assurance of learned State counsel that the needful would be done within a period of two weeks.

The order dated 18.07.2022 be complied with before the next date of hearing as well as the reply, if any, be also filed by then, failing which costs of Rs.25,000/- would be payable to the petitioner by way of demand draft on the next date of hearing. The said conditional costs would be recoverable from the erring official(s).

Adjourned to 08.09.2022.”

Pursuant the above noted interim order, written statement on behalf of respondent Nos.1 to 3 has been filed. It is averred therein that the financial assistance was paid to the petitioner w.e.f. 01.05.2016 to February 2017. The petitioner was required to deposit the life certificate in the month of April 2017, but the same was not done in the proper format and was not countersigned by Sarpanch, nor was it attested by gazette officer. Petitioner was also intimated through letters dated 08.02.2018 and 15.03.2018 that he has not submitted the life certificate as required by the office for payment of financial assistance. The defense taken in the written statement as such, is

that the financial assistance was stopped for non-fulfillment of the requisite documentation/certification, as provided by the instructions issued by Rajya Sainik Board, Panchkula, Haryana vide memo dated 23/01/2005-3D-III dated 24.08.2009 (Annexure R-II). It is thus submitted on behalf of the respondents that the survival verification of the petitioner is pending, for want of 'survival certificate' in terms of condition No.5 of the aforesaid Instructions, which reads as under:-

“5. Arrear of F.A. for the period 1.8.2009 to the date of actual payment shall be payable only to the existing surviving ESM / widow beneficiaries, strictly on the basis of survival verification of the concerned beneficiary duly verified by the revenue authorities of the concerned village/ area i.e. Sarpanch, Nambardar of Village Panchayat, Revenue Patwari / Kanungo, Tehsildar. Survival Certificate issued by the Sarpanch and Nambardar should be attested by any Gazetted Officer.”

Heard petitioner-in-person and learned counsel for the respondents and with their assistance perused the pleadings and record.

At the outset, petitioner submits that he is ready and willing to furnish the survival certificate (life certificate) in the format as required in terms of the Instructions dated 24.08.2009 (Annexure R-II), which have now been brought to his notice. It is submitted that though the Sanik Board was created for smooth implementation and assisting the eligible ex-servicemen to avail of the benefits under the Welfare Schemes provided by the Government of Haryana to Armed Forces personnel, from time to time, it has failed the petitioner and forced him to approach this Court by way of the present petition.

Learned counsel appearing for the respondents, in all fairness, submits that to cut short the controversy and without entering into blame game, in case the petitioner submits the aforesaid survival certificate and presents himself before the third respondent, then all the requisite formalities would be completed on the same day and necessary sanction would be issued expeditiously, in accordance with law. The actual monetary benefit would also be released immediately after the mandated sanction.

The aforesaid statement has been accepted by the petitioner and further prays that the date and time be specified for appearance before the Welfare Officer, Sanik and Ardh Sainik Welfare Department, Narnaul, Haryana (respondent No.3) and the action to be taken thereon be also ordered to be completed in a time bound manner. Learned counsel for the respondents, on instructions, submits that the petitioner may approach the third respondent on any day in the coming week, during office working hours.

In view of the above consensus, which has been voluntarily accepted by the petitioner-in-person, the petitioner would appear before the third respondent on 14.09.2022 at 10:00 A.M. along with the duly attested survival certificate, as per requirement given under condition No.5 of the Instructions dated 24.08.2009 (supra). The respondents are directed to facilitate and provide proper assistance to the petitioner and in case, if any other formality is to be completed, the same shall also be got done during the said visit itself.

Accordingly, directions are also issued to respondent No.3 to consider and process the case of the petitioner expeditiously for release of the Financial Assistance (disability pension) as per the welfare scheme,

including arrears, in accordance with law and positively within four weeks from the date of presentation of the above referred survival certificate that would be presented in person, as noticed above.

Needless to say that the arrears and consequential monetary benefits, as per entitlement, would be released to the petitioner forthwith thereafter and definitely within a period of two weeks from the date of sanction.

The petition stands disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 08, 2022
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No