

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.19765 of 2022

Date of Decision: 05.09.2022

Prince Kumar Yadav minor son of Late Sanjay Kumar Yadav through
Guardian and Grand Father Omparkash.

....Petitioner

VERSUS

Union of India and others

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. J.P. Sharma, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

The present petition under Article 226/227 of the Constitution of India has been filed by a minor through his guardian and grand-father, raising the grievance that he has been abandoned by his mother and therefore, a mandamus be issued to the respondents for granting full family pension and other retiral benefits to him. In the alternate, the prayer is for grant of 50% of the family pension and all other retiral benefits, as per Rules and Regulations of the respondent-department.

The facts in brief are that Sanjay Kumar, father of the minor petitioner and only son of Om Parkash i.e. the guardian and grand-father of the petitioner was serving in the Indo-Tibetan Border Police Force and unfortunately died in harness in a road side accident on 10.03.2018. The mother of the petitioner i.e. widow of Sanjay Kumar viz. Mamta Devi (respondent No.6) left the petitioner to fend for himself with the grand-father on 05.10.2020. On account of the said incident, FIR No.527 dated 05.10.2020 under Sections 346 IPC, at Police Station City Mohindergarh,

District Mohindergarh (Annexure P-2) was registered. Subsequently, the mother of the petitioner suffered a statement under Section 164 Cr.P.C. categorically stating that she had gone with Satender son of Rajbir of her own will and she was not seduced by him and she wants to live with Satender. Satender Kumar (respondent No.7) is also in service with Indo-Tibetan Border Police Force and is stated to be currently posted at 17th Battalion, I.T.B.P. Reckong Peo (Himachal Pradesh). The mother of the petitioner (respondent No.6) is also staying with said Satender Kumar in a live-in-relationship at the place of his posting. The petitioner is stated to be 14 years old and studying in Class-IX and his aged grand-father/guardian does not have enough source of income and on that count, the petitioner is facing great hardship. The petitioner is also legally entitled to be maintained from the family pension sanctioned on account of the death of his father, who died in harness. It is submitted that the petitioner's claim is permissible under Rule 50(7)(b) read with sub-rule 8 of the Central Civil Services (Pension) Rules, 1972.

A perusal of the paper book reveals that before seeking a writ of mandamus, justice demand notice has not been served upon the official respondents.

In view of the above, learned counsel for the petitioner, on instructions, submits that the present petition be disposed of with a direction to the respondents to consider this petition as a representation and decide the same in accordance with law, by passing a speaking order within some stipulated time.

Mr. Indresh Goel, Advocate with Ms. Neha Sharma, Advocate have put in appearance on behalf of the official respondents, as a copy of this petition was supplied to Mr. Goel in advance. They have no serious

objection of the petition being treated as representation and being considered and decided as per law in a time bound manner.

Without going into the merits of the case or the claim raised by the petitioner in the present petition, the competent authority (respondent No.4/respondent No.5) is directed to consider this petition as a representation and decide the grievance raised therein, in accordance with law, by passing a speaking order within a period of eight weeks from the date of receipt of the certified copy of this order.

Needless to observe that in case, after the decision, the petitioner is found entitled for any benefits, the same be also extended to him forthwith and not later than six weeks from the date of such decision, as per law.

The petition stands disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 05, 2022
Sachin M.

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