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

(Through video-conferencing)

CWP No.21799 of 2021 (O&M)

Date of Decision: 06.01.2022

VIDYA DEVI

.....Petitioner

Vs

UNION OF INDIA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Jyoti Sareen, Advocate
for the petitioner.

Ms. Tanvi Jain, Advocate with
Ms. Sarita Capoor, Under Secretary
for the respondents No.1 and 2/Union of India.

Ms. Jasleen Kaur, Asstt. A.G., Punjab
for respondent No.3.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this writ petition under Article 226 of the Constitution of India for the issuance of an appropriate writ especially in the nature of mandamus directing the respondents to grant dependent family pension to the petitioner husband under the Swatantrata Sainik Samman Pension Scheme w.e.f. 03.11.2017 i.e. the date of death of her husband and to grant the arrears of pension to the petitioner

along with interest @12% p.a. from the date the same became due till final realization of the amount.

[2]. Admittedly, the husband of the petitioner namely Sh. Ram Saroop was a freedom fighter and was drawing freedom fighter pension vide the PPO No.MHAFF7237138(6406/FF/Cent.) under the Swatantrata Sainik Samman Pension Scheme. Husband of the petitioner died on 03.11.2017. Husband of the petitioner was also drawing State Freedom Fighter Pension from the State of Punjab. The State of Punjab has already sanctioned dependent's freedom fighters pension to the petitioner. After the demise of her husband, petitioner became entitled to freedom fighter pension as per para No.2 of the Pension Payment Form which has the following recital:-

“2. In the event of death of Sh./Smt. Ram Saroop, family pension of Rs.750/- per month may be paid to Smt./Sh. Vidya Devi from the day following the date of death of Sh./Smt. Ram Saroop till the date of her/his remarriage or death, whichever is earlier (on receipt of death certificate and form of application from widow/widower).”

[3]. The dependent's family pension under the SSS Pension Scheme 1980 is governed by the Policy circular dated 30.12.2015. Husband of the petitioner was never employed in any Government service, nor was drawing any pension therefrom, except the central freedom fighter pension under the

SSS Pension Scheme 1980 as well as the State freedom fighter pension from the State of Punjab. According to the aforesaid memorandum dated 30.12.2015, dependent's family pension under the SSS Pension Scheme 1980 cannot be granted to the dependent if:-

- “(i) The spouse/daughter is already employed in Central or a State Government, Central/State PSU or local body.*
- (ii) In case the spouse/daughter is working in a private sector or having his/her own business/activity then income from such job/activity exceeds Rs.20,000/- per month.*
- (iii) The spouse/daughter should not be receiving a pension/salary on account of his or her own job or by virtue of the previous employment of the deceased freedom fighter.”*

[4]. According to explanation 1, if the spouse is already receiving the State freedom fighter pension, then the same has to be excluded from the aforesaid disentitlements of the spouse. According to the elaborated criteria, the petitioner fulfilled both the twin conditions by falling into the eligible category of relationship being widow and is not having any independent means of livelihood.

[5]. As per para 6.1.2 of the revised policy guidelines, the Bank must ensure that the dependent pension is not sanctioned

to a spouse, if:-

- “(i) The spouse/daughter is already employed in a Central or a State Government, Central/State PSU or local body and income from such job/activity exceeds Rs.2,40,000/- per year or Rs.20,000/- per month.*
- (ii) In case the spouse/daughter is working in a private sector or having his/her own business/activity then income from such job/activity exceeds Rs.2,40,000/- per year or Rs.20,000/- per month.*
- (iii) The spouse/daughter is receiving a pension/salary on account of his or her own job or by virtue of the previous employment of the deceased freedom fighter and income from such job/activity exceeds Rs.2,40,000/- per year or Rs.20,000/- per month.”*

[6]. Petitioner is only drawing State freedom fighter pension and is eligible for grant of dependent's family pension under the SSS Pension Scheme 1980. Admittedly, the petitioner on the basis of such status is already drawing dependent's State freedom fighter pension from the State of Punjab. The petitioner applied for the grant of dependent's family pension under

Swatantrata Sainik Samman Pension Scheme 1980 on the prescribed form attached as Annexure IV along with copy of death certificate of her husband, pensioner's portion of PPO in original and certificate regarding marital status of the petitioner.

[7]. The Punjab National Bank vide letter dated 16.04.2018, addressed to Government of India, Ministry of Home Affairs, New Delhi has testified that the deceased husband of the petitioner (Ram Saroop) was drawing freedom fighter pension vide PPO No.MHAF7237138 and after his demise, his wife i.e. the petitioner has approached the Bank to start family pension in her name. The Bank has also testified that the petitioner is also getting family pension (freedom fighter) from Punjab Government i.e. Rs.7500/- per month vide sanction received vide letter dated HOSHIARPUR/NS/311/PPO-6210/91DT6/3/18. The bank further reiterated the same by recommending the candidature of the petitioner for grant of such pension by opening of family pension account under freedom fighter category (Central) to the Chief Manager, Punjab National Bank, Central Pension Processing Centre, Karol Bagh, New Delhi by forwarding the original PPO with other enclosures.

[8]. In response to the aforesaid communication made by the petitioner through Bank, the Government of India, Ministry of Home Affairs, FFR Division issued a letter dated 31.07.2019,

admitting the receipt of application form on Annexure IV dated 07.05.2018 with a rider that if the name of the spouse is mentioned in the sanctioned letter issued by the Ministry of Home Affairs, then application is required to be submitted in Annexure IV, but on scrutiny of the documents submitted through the Bank, sanction letter was not received in the Ministry of Home Affairs. The request was made to submit the sanction letter issued in the name of deceased Ram Saroop at the time of sanctioning SSS Pension. It was also communicated that if the name of the petitioner does not appear in the sanction letter, then a certificate be submitted in Annexure VA issued from District Magistrate. In the aforesaid letter three documents were asked for i.e. (i) certificate of marital status in Annexure VI (format); (ii) certificate regarding income/employment in Annexure VI (format); and (iii) complete bank details along with BSR Code. In compliance of the aforesaid requirements, the petitioner applied for issuance of certificate of marital status as well as income certificate to the Deputy Commissioner, Hoshiarpur in prescribed format. In intra-departmental communication, even the Bank vide communication dated 16.10.2019 informed the office of Deputy Commissioner, CEA Branch, Hoshiarpur that deceased Ram Saroop with PPO No.MHAFF7237138 had been drawing pension from the PNB, Bank Road, Hoshiapur Branch and was receiving both the

pensions i.e. freedom fighter pension and also the State freedom fighter pension.

[9]. The aforesaid communication was sent through the office of SDM, Hoshiarpur. On the basis of aforesaid compliance, the office of Deputy Commissioner, Hoshiarpur vide letter dated 1879/C.C.A.-5/dated 11.12.19 issued the necessary certificate on the basis of report received from the office of SDM, Hoshiarpur. The certificate dated 10.12.2019 was issued in the context that the petitioner was legally wedded wife of late Sh. Ram Saroop i.e. the deceased freedom fighter, who was drawing SSS Pension vide PPO MHAF7237138 (6406/FF/Cent/10.04.2021 from the Central Revenues. It was also testified that the petitioner is not married as on date and does not have any source of income. Petitioner forwarded all the documents to respondent No.1 on 12.12.2019 through registered post. At that time, copy of sanction letter was not available with the petitioner.

[10]. The Ministry of Home Affairs vide letter dated 24.02.2020 addressed to the petitioner asked for sanction letter issued by the Ministry of Home Affairs at the time of sanctioning Central Samman Pension to deceased Ram Saroop. Admittedly, Ram Saroop was already drawing the said pension from the central revenues, therefore, the necessary information was already available with the competent authority. The sanction

letter issued in favour of deceased husband of the petitioner at the time of sanctioning Central Samman Pension was already on record of the Department and keeping in view the inaction on behalf of respondents No.1 and 2, the petitioner got issued a legal notice to respondents No.1 and 2.

[11]. After issuance of aforesaid legal notice, the Ministry of Home Affairs, Government of India made a correspondence with the Advocate of the petitioner requiring submission of sanction letter which was issued in favour of deceased freedom fighter i.e. husband of the petitioner. It was also communicated that the PPO related to the husband of the petitioner has been referred by the Ministry to the Accountant General (A&E) Punjab and Chandigarh UT at Chandigarh for its verification and the same was still awaited at that time. It was also communicated that Swantantrata Sainik Samman Yojana is a document based Yojana and the claim made thereunder can only be considered after receipt of required documents. Bare perusal of the aforesaid letter would show that the sanction letter in favour of deceased husband of the petitioner was demanded and PPO related to the husband of the petitioner was referred by the Ministry to the Accountant General (A&E) Punjab and Chandigarh UT at Chandigarh for its verification.

[12]. Owing to the further inaction on behalf of respondents No.1 and 2, petitioner again got issued a legal

notice/representation dated 24.03.2021 pleading therein that husband of the petitioner was a freedom fighter and was holder of pension under PPO No.MHAFF723138(6406/FF/Cent.) under S.S.S. Yojana. The Ministry of Home Affairs, Government of India again informed the Advocate of the petitioner vide letter dated 12.04.2021 that original copy of both portions of PPO i.e. disburser portion and pensioner's portion as well as sanction letter are mandatory for consideration of dependents freedom fighters pension under SSS Yojana. In this communication, the requirement of portion of PPO was highlighted for the first time even after sending the PPO related to husband of the petitioner for verification to the Accountant General (A&E), Punjab and Chandigarh UT at Chandigarh. In fact by that time respondents must have come across the fact that the original Pensioner's portion of PPO had been misplaced or lost in the office itself.

[13]. Learned counsel for the petitioner on the basis of aforesaid facts asserted that the petitioner is being unnecessarily harassed despite the fact that pensioner's portion of PPO in original was duly sent along with application in the form of Annexure IV and the same was duly acknowledged when communication was made by the respondents requiring other documents except the sanction letter. There was no reference of PPO in the letter dated 24.02.2020 addressed to the petitioner. Even prior to the aforesaid communication, there

was no reference of PPO in the communication dated 31.07.2019 addressed by the respondents to the petitioner. Only reference was made in respect of three documents viz. Certificate of marital status in Annexure VI, certificate regarding income/employment in Annexure VI and complete bank details along with BSR Code.

[14]. Learned counsel for respondents No.1 and 2 submits that original PPO has not been received by the respondents and in the absence thereof, further action could not be taken.

[15]. During course of hearing on 22.11.2021, office of Accountant General (A&E), Punjab and Chandigarh UT at Chandigarh was ordered to be impleaded and thereafter vide order dated 29.11.2021, the said authority was impleaded on its correct address in order to ascertain whether sanction letter was granted in favour of deceased Ram Saroop or not and also the verification of PPO under the SSS Pension Scheme in favour of deceased freedom fighter Ram Saroop. After impleadment of the aforesaid authority as party respondent, this Court passed the order dated 21.12.2021 to the following effect:-

“Learned counsel for the petitioner submits that at the time of submitting application on Form Annexure-IV, copy of death certificate, Pensioner's Portion of PPO in original and certificate regarding marital status were duly submitted by the petitioner to the Treasurer, Public Sector Banks, Director of

Accounts/Pay and Accounts Office, Ministry of Home Affairs for grant of family pension to the petitioner under Swatantrata Sainik Samman Pension Scheme from Central Revenues. Perusal of letter dated 16.09.2020 issued by Government of India, Ministry of Home Affairs, FFR Division addressed to Ramesh K Menon, Advocate would show that sanction letter issued in favour of freedom fighter had not been received from the petitioner. PPO related to the husband of the petitioner was referred by the Ministry to the Accountant General (A&E), Punjab and Chandigarh UT at Chandigarh for its verification. At that time, the said information was awaited.

Today, learned State counsel has handed over verification report from the office of Accountant General (A&E), Punjab to the learned counsel for Union of India, finding that as per verification, PPO related to husband of the petitioner is a genuine document.

Learned counsel for Union of India has raised a factual issue with regard to non-submission of pensioner's portion of PPO in original. This fact can be negated on bare perusal of application form submitted by the petitioner in the form Annexure-IV. There is no denial to the said fact in the written statement.

Learned counsel for UOI seeks time to have further instructions.

Adjourned to 06.01.2022.

To be shown after the urgent list.”

[16]. In compliance of the aforesaid order, learned counsel

for respondents No.1 and 2 on instructions from Ms. Sarita Capoor, Under Secretary to the Government of India, Ministry of Home Affairs, FFR Division reiterated that the pensioner's portion of PPO in original is not available in the Ministry, however disburser portion is available and the needful cannot be done in the absence of Pensioner's portion of PPO.

[17]. Learned counsel however submitted that respondents No.1 and 2 have no objection to sanction the dependent freedom fighter pension under SSS Yojana, however the same thereafter would be subjected to objections by Pay & Accounts Office of Ministry of Home Affairs as pensioner's portion of PPO is the essential requirement for grant of pension in question.

[18]. Perusal of reply filed by respondents No.1 and 2 would show that pensioner's portion of PPO was never required in the communication dated 31.07.2019 issued by Under Secretary to the Government of India, Ministry of Home Affairs, FFR Division to the petitioner. Same was the situation in communication dated 24.02.2020 issued by the Ministry to the petitioner and also the reply of legal notice dated 16.09.2020 issued by the Ministry to the Advocate of the petitioner. It was observed by the Ministry that sanction letter issued in favour of deceased freedom fighter has not been received from the petitioner so far and the PPO related to the husband of the petitioner has been referred by the Ministry to the Accountant General (A&E) Punjab

and Chandigarh UT at Chandigarh for its verification.

[19]. Today, during course of hearing, learned State counsel appearing on behalf of added respondent No.3 on instructions submitted that the PPO related to the deceased husband of the petitioner has been verified and the same is found to be genuine. This fact has also been acknowledged by learned counsel for the respondents No.1 and 2 on instructions from Ms. Sarita Capoor, Under Secretary to the Government of India.

[20]. On the basis of aforesaid, learned counsel for respondents No.1 and 2 submitted that the respondents shall sanction the pension in question, however subject to the approval by the Pay & Accounts Office, Ministry of Home Affairs, Jam Nagar House, New Delhi.

[21]. It is established on record that after receipt of pensioner's portion of PPO, the same is not traceable in the office or must have been lost in the office of the concerned quarter. Admittedly no DDR has been lodged by respondents No.1 and 2 in respect of non-availability of pensioner's portion of PPO which was duly submitted along with application in form of Annexure IV.

[22]. As per para 8.3 of the guidelines for disbursement of Central Samman Pensions to be followed by authorised Public Sector Banks, the procedure for issuance of duplicate PPOs

has been prescribed. In case, where only the Disburser's portion is lost and the pensioner's portion is available, then, after the completion of the formalities as mentioned in paragraph 26.4 of the Annexure IX attached with the guidelines, PAO may simply put a stamp of duplicate PPO on the pensioner's portion of the PPO and the same shall be treated as a duplicate PPO and Bank may retain it as a Disburser Portion. This shall be subject to the Bank paying the penalty of Rs.10,000/- to the Pay and Accounts Office as required under para 8.1.1 of the aforesaid guidelines. Similar process may be adopted for issuance of duplicate PPO where disburser portion is available but the pensioner's portion is lost subject to the payment of penalty.

[23]. Admittedly in the present case, disburser portion of PPO is available with respondents No.1 and 2, however pensioner's portion of PPO is not available despite the fact that the same was duly forwarded to the respondents in the form of Annexure IV along with application which was duly responded to for some requirements to be completed by the petitioner, except the sanction letter. Incorporation of objection with regard to PPO was subsequently added only in reply to the representation submitted by the Advocate of the petitioner. According to learned counsel for the petitioner the said

objection is the result of afterthought in order to cover up inaction on the part of respondents No.1 and 2. The said objection is aimed to ward off liability in respect of misplacing or loosing the Pensioner's portion of PPO. This objection came after sending the PPO for verification to the Accountant General (A&E) Punjab and Chandigarh UT at Chandigarh.

[24]. From the aforesaid facts, it is apparent that the application for grant of dependent freedom fighter pension under SSS Yojana was submitted along with Annexure IV in the year 2018, but till date needful has not been done despite the fact that numerous communications were addressed to the authority and the competent authority has time and again raised objections which according to learned counsel for the petitioner are totally unfounded on the ground that petitioner is already drawing State freedom fighter pension from the State of Punjab. Respondents No.1 and 2 have taken a very hypertechnical view in the context of required documents.

[25]. Admittedly, the petitioner is drawing State freedom fighter pension from the State of Punjab. Grant of pension by the State Government is a relevant factor to be considered for accepting the genuineness of the certificates which are acted upon while granting State freedom fighter pension by the State of Punjab in favour of the petitioner. Those very certificates cannot be rejected, doubted or objected to by the Central

Government by taking hypertechnical view. In case of a freedom fighter, the High Court of Judicature at Madras in **W.P. No.25062 of 2016** titled '**N.V. Vadivelu vs. The Secretary to Government of India and others**' deprecated the action of central Government and it was held that the freedom fighter should not be made to approach the Court with begging bowls for pension. It is the duty of the State to go to their doorsteps and honour them for their contribution towards freedom struggle. In the present case, petitioner is dependant of freedom fighter, who has been made to suffer on account of hypertechnical objection. On the basis of these very documents, she is drawing State freedom fighter pension from the State of Punjab.

[26]. In view of aforesaid, respondents No.1 and 2 could have resorted to para 8.3 of the guidelines for disbursement of Central Samman Pensions to be followed by authorised Public Sector Banks in order to complete the missing gaps while awarding the requisite pension in favour of the petitioner. Despite lapse of more than three years, the needful has not been done till date. It is only now, the learned counsel for respondents No.1 and 2 on instructions from Ms. Sarita Capoor, Under Secretary to the Government of India has submitted that respondents No.1 and 2 shall sanction the requisite pension in

favour of the petitioner, however subject to the approval by the Pay & Accounts Office at Ministry of Home Affairs, Jam Nagar House, New Delhi.

[27]. It appears that the respondents No.1 and 2 have taken a totally hypertechnical objection, rather to advance the cause of justice. The inaction on the part of respondents No.1 and 2 is liable to the condemned as the same is directed towards defeating the cause of justice. The proceedings undertaken by the petitioner and objected to by respondents No.1 and 2 at different quarters are suggestive of the fact that respondents No.1 and 2 have not responded to a genuine and legal cause of the petitioner despite availability of remedy in terms of para No.8.3 of the guidelines for disbursement of Central Samman Pensions to be followed by authorised Public Sector Banks. Evidently, Pay & Accounts Office at Ministry of Home Affairs, Jam Nagar House, New Delhi is under the domain and control of respondents No.1 and 2. Inordinate delay has occurred on account of inaction on behalf of respondents No.1 and 2.

[28]. In view of aforesaid status of the case as on date, it would be just and appropriate to obligate respondents No.1 and 2 to do the needful in the context of sanctioning the dependent freedom fighter pension under SSS Yojana to the petitioner forthwith after getting the same approved from the Pay &

Accounts Office of the Ministry of Home Affairs. Petitioner is also held entitled for arrears of pension from 03.11.2017 along with interest @ 9% per annum from the date of which arrears became due till final realisation of the amount.

[29]. However, in view of non-availability of pensioner's portion of PPO with respondents No.1 and 2 and in view of availability of remedy in terms of para No.8.3 of the guidelines for disbursement of Central Samman Pensions to be followed by authorised Public Sector Banks, I deem it appropriate to direct that the compliance of aforesaid para 8.3 of the guidelines shall be complied with by respondents No.1 and 2 and necessary expenses shall be borne by the authority itself.

[30]. The respondents No.1 and 2 shall comply with the order within a period of two months from the date of receipt of certified copy of this order.

[31]. With the aforesaid direction, this writ petition is disposed of.

January 06, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No