IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12689 of 2021

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Raj Kumari Devi W/o- Rajendra Prasad Gupta, Resident of Village-Karoundi, P.O.- Sarawn, P.S.- Natwar, District- Rohtas.

... ... Petitioner

Versus

1. The Union of India, through the Secretary Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Director General of Sashatra Seema Bal (SSB), New Delhi.
3. Inspector General, Sashastra Seema Bal (SSB), Frontier Patna, Frontier Hqrs, Patna.
4. Commandant, Sashastra Seema Bal (SSB), Frontier Hqrs, Patna.
5. 2nd Command Officer (Welfare), Sashastra Seema Bal (SSB), Frontier Hqrs, Patna.
6. Drawing and Disbursing Officer, Sashastra Seema Bal (SSB), Frontier Hqrs, Patna.

... ... Respondents

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Appearance:

For the Petitioner	:	Ms. Shruti Sinha, Adv.
		Mr. Ebrahim Kabir, Adv.
For the Respondents	:	Mr. Dr. Krishna Nandan Singh, ASG
		Ms. Radhika Raman, CGC
		Mr. Awadhesh Kumar Pandey, Sr. Panel Counsel
		Mr. Ram Tujabh Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 07-12-2023

The present writ petition has been filed for directing the respondents to immediately stop making payment of any further amount to the widow of the deceased son of the petitioner and to grant at least 50% of the total financial benefits given to the widow of the deceased son of the petitioner, who died while working as a constable with the Sashastra Seema Bal. The petitioner has also prayed for grant of compassionate appointment to her son or her unmarried younger daughter.

2. The brief facts of the case, according to the petitioner, is that the elder son of the petitioner, namely, Jitendra Kumar Gupta, was a CT/GD in Sashastra Seema Bal (SSB), Frontier Headquarters, Patna, who was appointed on 08.02.2014 and died on duty on account of deadly Covid-19 disease, on 10.05.2021, whereafter, all the financial benefits / death cum retiral benefits including ex-gratia sum of Rs. 25 lacs, Bharat Ke Vir Nidhi to the tune of Rs. 15 lacs, Staff Benevolent Fund of Rs. 12 lacs etc. were paid to the widow /wife of the son of the petitioner, namely, Pooja Kumari, however, the petitioner, who is the old mother of the deceased, has been left high and dry. It is further submitted that the aforesaid Pooja Kumari's marriage was solemnized with the son of the petitioner only in the year, 2017, no child has been born out of the said wedlock and now, she has run away from her matrimonial home, leaving the petitioner and rest of her family in lurch. It is contended that the petitioner and her aged ailing husband as also her young children, who were dependent on the deceased elder son of the petitioner, are in a penurious condition, hence, it is warranted that at least 50% of the entire financial benefits, given to the

widow /wife of the deceased son of the petitioner, be given to the petitioner and for the said purpose, she has made several representations before the Respondents but to no avail.

3. *Per contra*, the learned counsel for the Respondents has referred to the counter affidavit filed in the present case to submit that late Jitendra Kumar Gupta of Frontier Headquarters, SSB, Patna, was enrolled in SSB as Constable (GD) on 08.02.2014 at 63rd Bn SSB, Barasat (West Bengal) and then he was transferred on 17.11.2020 to 45th Bn SSB, Frontier Hq., Patna, where it was detected that the aforesaid late Jitendra Kumar Gupta was a patient of Kidney disease Stage-III, however, subsequently, on account of contracting Covid-19 virus, his condition deteriorated and unfortunately, he expired on 10.05.2021, while undergoing treatment at AIIMS, Patna. It is further submitted that as per the service records of late Jitendra Kumar Gupta, his legally wedded wife is Smt. Pooja Kumari (DOB-10.12.1999), who is also his legal heir, hence upon demise of the said Jitendra Kr. Gupta, immediate Relief for Rs. 25,000/-, Financial Assistance out of Central Welfare fund to the tune of Rs. 1,00,000/- and Funeral Expenses to the tune of Rs. 8,000/- was paid to the next of kin of the deceased i.e Smt. Pooja Kumari. Thereafter, a sum of Rs. 12,00,000/- was

also paid to Smt. Pooja Kumari, wife of the deceased, on the head of- “Financial assistance out of Staff Benevolent Fund”. It is next contended that it is incorrect on the part of the petitioner to aver that ex-gratia compensation to the tune of Rs. 25 lacs has been paid to the widow wife of the deceased, inasmuch as the said issue is under consideration at the level of the Ministry of Home Affairs and no decision has been taken till date.

4. The Ld. Counsel for the respondents has further submitted that Rule 54 (6) of the CCS (Pension) Rules, 1972 (hereinafter referred to as “the Rules, 1972”) postulates that family pension shall be payable to a widow upto the date of remarriage, nonetheless, the same shall continue to be paid to a childless widow on remarriage, if her income from all other sources is less than the amount of minimum family pension under Sub-Rule (2) and the dearness relief admissible thereon. It is also pointed out that Rule 54 (10-A) (a) of the Rules, 1972, provides that family pension shall be payable to the parents of the deceased, if the parents were wholly dependent on the Government servant immediately before his or her death and the deceased Government servant is not survived by a widow or an eligible child. Thus, it is submitted that the Rules, 1972 permit grant of pensionary benefits only to the widow of the deceased

or her eligible child and not to the parents of the deceased, hence, the pension papers, for payment of pensionary benefits to Smt. Pooja Kumari, widow of the deceased, Jitendra Kumar Gupta, were processed, especially considering the fact that she has been named as the nominee by her deceased husband in the nomination forms, for payment of death-cum-retirement gratuity as also for deriving benefits under the Central Government Employees Group Insurance Scheme, 1980.

5. The Ld. counsel for the Respondents has further referred to Rule 54 (21) of the Rules, 1972, which reads as follows:-

> “(21). Grant of family pension to dependent parents of a deceased Government employee- The undersigned is directed to refer to this Department’s O.M.NO. 45/86/97-P&PW(A)-Part I, dated 27.10.1997, whereby the definition of family for the purpose of grant of family pension was extended to include, *inter alia,* “parents who were wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child.”

It is further pointed out that it has also been clarified by the Department of Pension & P.W., vide OM dated 02.09.2011 that the parents of a deceased are eligible for family pension when the deceased employee is survived by them only, however, in case the deceased employee is survived by a widow and / or one or more children, the parents of the deceased are not eligible to receive family pension. Thus, in the instant case, since the deceased Jitendra Kumar Gupta has left behind his widow, namely, Pooja Kumari, who was wholly dependent upon him, the Zonal Pay & Accounts Office has issued pension payment orders dated 14.07.2021 as also authority for payment of death-cum-retirement gratuity, vide order dated 22.07.2021, in favour of Smt. Pooja Kumari, widow of the deceased, being the sole legal heir, as per the Rules.

6. The Ld. counsel for the Respondents has also submitted that the mother of the deceased, Jitendra Kumar Gupta, had submitted an application for stopping the payment of pensionary benefits to Smt. Pooja Kumari and making payment of 50% amount of the total pensionary benefits of the deceased to her, however, upon examination, the case of the petitioner has been rejected and communication to the said effect has already been sent to the petitioner, vide letter dated 20.07.2021, written by the Personnel Officer (Administration), Frontal Hq., SSB, Patna, nonetheless, the petitioner has not challenged the aforesaid letter dated 20.07.2021 till date, whereby, the petitioner has been informed that Smt. Pooja Kumari, wife of the deceased, is entitled to the financial and pensionary benefits of the deceased Jitendra Kr. Gupta, inasmuch as in the service book of the deceased as also in all the nomination forms, her name has been

recorded from before, thus, the present writ petition is bereft of any merit, hence is fit to be dismissed.

7. I have heard the learned counsel for the parties and gone through the materials on record. This Court finds from a bare perusal of Rule 54 (6) of the Rules, 1972 that family pension is payable to a widow upto the date of remarriage, however, the same shall continue to be paid to a childless widow on remarriage, if her income from all other sources is less than the amount of minimum family pension under Sub-Rule (2) and the dearness relief admissible thereon. This Court further finds from a bare perusal of Rule 54 (21) that the definition of family for the purpose of grant of family pension has been extended to include, *inter alia,* "parents who were wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child". In fact it has also been clarified by the Department of Pension & P.W., vide OM dated 2.9.2011 that the parents of a deceased are eligible for family pension when the deceased employee is survived by them only, however, in case the deceased employee is survived by a widow and / or one or more children, the parents of the deceased are not eligible to receive family pension. In this connection, it would also be gainful to

refer to Rule 54(24) of the Rules, 1972, which is reproduced herein below:-

> "**(24). Dependent parents and widowed/divorced daughter also included in the definition of family.-**For the purpose of grant of Family Pension, the definition of Family shall also include:
>
> (a). Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child.
>
> (b). Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/remarriage, whichever is earlier."

8. This Court has also gone through the nomination papers, filled by the deceased Jitendra Kumar Gupta, which are annexed as Annexures- J and K to the counter affidavit filed in the present case, from which it is apparent that Smt. Pooja Kumari, widow of the deceased Jitendra Kumar Gupta, has been made nominee to receive all the death-cum-retiral benefits and other benefits and the petitioner has not been nominated as the first nominee, whereas the petitioner has been conferred with the right, granted to the nominee i.e. Smt. Pooja Kumari, in case of her predeceasing the Government servant or she dying after the death of the Government servant, but before receiving payment of gratuity, but this is not the case here. Therefore, this Court is of the opinion that as per the law governing payment of death-

cum-retiral benefits and pensionary benefits as also as per the provisions contained in the Rules, 1972, as aforesaid, the widow of a deceased employee and her children are only entitled to receive the death-cum-retiral benefits / pensionary benefits, whereas the parents of the deceased are entitled to receive the aforesaid benefits only in case the deceased employee had left behind neither a widow nor a child, but this is not the case here. In fact, the SOP for compassionate appointment, circulated by the Force Headquarters, SSB, New Delhi, vide SOP dated 05.09.2014 (Annexure-R to the counter affidavit) also defines "Dependent Family Member", who was wholly dependent on the member of the Force at the time of his death in harness or retirement on medical grounds, as the case may be, as follows:-

"(i) spouse; or

(ii) son (including adopted son); or

(iii) daughter (including adopted daughter); or

(iv) brother or sister in the case of unmarried Government servant.

Thus, this Court finds that there is no provision for granting compassionate employment, either to the son or the unmarried younger daughter of the petitioner, hence this Court finds that the petitioner does not have any case on merits. Nonetheless, the fact remains that the petitioner has not refuted any of the aforesaid contentions, advanced by the learned counsel for the Respondents.

9. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.12.2023
Transmission Date	NA