

13.03.2023
Ct. 5
D/L 15
ab

WPA 28914 of 2022

Smt. Gita Rani Jana

-Vs-

Union of India & Ors.

Mr. Ramdulal Manna,
Ms. Manju Manna (Dey),
Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee,
Ms. Payel Khanra

... for the petitioner

Mr. S. K. Ghosh

... for the respondent nos. 1 to 3

Ms. Saheli Mukherjee

... for the State

The petitioner has challenged a Communication dated 2nd/3rd January, 2023 of the Under Secretary to the Government of India with reference to Swatantrata Sainik Samman Yojana. The claim of the petitioner, as the 2nd surviving wife of the freedom fighter, was rejected under Clause 5 of the Revised Policy Guidelines.

The petitioner claims to be the 2nd wife of the freedom fighter, who was eligible for pension under the particular Scheme.

Learned counsel appearing for the petitioner places a voters' list, which reflects both the petitioner as

well as the 1st wife, one Saraswati Jana in the document.

Learned counsel appearing for the Union of India places Clause 5 of the Guidelines for Disbursement of Central Samman Pensions issued by the Ministry of Home Affairs and to be followed by Authorized Public Sector Banks. Counsel submits that the dependent pension shall be sanctioned to the spouse or unmarried daughters only if their names were appearing in the original application form submitted by the freedom fighter or the sanction letter issued by the Ministry. Counsel also submits that the 2nd marriage, i.e. between the petitioner and the freedom fighter was solemnized sometime in 1972. The 1st wife, Saraswati Jana died on 13th August, 2020. Counsel further submits that the marriage between the petitioner and the freedom fighter during the lifetime of the 1st wife was not communicated to the concerned authority.

This is disputed by counsel for the petitioner who submits that the 2nd marriage was solemnized with the consent of the 1st wife.

The Writ Court cannot go into the disputed facts. However, Clause 5.3.1 of the Guidelines, which specifically mentions a “case of two wives”, indicates that in the event there are two legally wedded wives, the pension will be divided and shared equally and after the death of one of the wives, the surviving wife is eligible

for full pension. The only condition given is that the Bank must obtain the death certificate of the deceased wife.

The impugned communication has not considered Clause 5.3.1 of the Guidelines. The authorities have simply acted on the basis of the petitioner's name not being mentioned in the original application form furnished by the freedom fighter. There is nothing in the impugned document that indicates that the authorities considered the relevant facts with regard to whether the petitioner was the legally wedded wife of the freedom fighter and whether the petitioner became eligible for full pension after the death of the 1st wife on 13th October, 2020.

The impugned communication dated 2nd/3rd January, 2023 is accordingly quashed. The respondent no. 3 being the Under Secretary to the Government of India, Freedom Fighters Division, will rehear and reconsider the case of the petitioner with particular reference to Clause 5.3.1 of the Guidelines upon taking into consideration the relevant documents including those mentioned in the Guidelines. The authority shall come to a decision in the form of a reasoned order within four weeks from date. The petitioner shall be heard in the proceedings and the authority shall consider the relevant documents.

WPA 28914 of 2022 is disposed of in terms of the
above.

(Moushumi Bhattacharya, J.)