

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

114

CWP-11718-2019

Date of Decision : 03.11.2023

Raj Bala

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Arshit Goel, Advocate
for the petitioner.

Mr. Ramesh Chand Sharma, Sr.Panel Counsel
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 16.11.2018 (Annexure P-8) whereby her claim of extra ordinary family pension has been rejected.

2. The petitioner is wife of deceased Head Constable Joginder Singh who was enrolled in Border Security Force on 04.04.1985 as Constable (GD) and passed away on 17.07.2006 while on duty. The deceased was posted with 46 Battalion, BSF, Ambassa, Dhalai, Tripura on 17.07.2006. The deceased while patrolling at Indo-Bangaldesh Border, suffered severe heart attack and died. The petitioner being wife of the deceased was extended benefit of regular pension, however, she is claiming extra ordinary family pension in terms of Central Civil Services (Extra

16.11.2018 (Annexure P-8) has rejected claim of the petitioner on the ground that deceased though died while on duty yet petitioner is not entitled to extra ordinary pension because her husband had died due to heart attack and it does not fall within preview of notified diseases.

3. Learned counsel for the petitioner *inter alia* contends that respondent has rejected claim of the petitioner relying upon Schedule-IA of Extraordinary Pension Rules. The question of death on account of heart attack while on duty came up for consideration before a Division Bench of Delhi High Court in **Vikram Singh and another vs. Union of India and another, 2013(1) SCT, 829.** The Division Bench after noticing aforesaid Schedule has held that dependent of deceased are entitled to extraordinary pension if deceased had died on account of heart attack while on duty. A similar view has been formed by this Court in **Smt. Kunta Devi vs. Union of India and others, 2011(1) PLR 668.**

4. On being confronted with afore-cited judgments, learned counsel for the respondents expressed his inability to controvert and simply stated that heart attack is not a notified disease.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. Indubitably, the husband of the petitioner had died on account of heart attack. He at that point of time was patrolling at Border. There is no allegation of history of heart disease. A Division Bench of Delhi High Court has categorically held that family of the deceased is entitled to extra ordinary pension if the deceased had died on account of heart attack. The relevant extracts of the judgment **Vikram Singh's case (supra)** read as :

6. Our attention has also been drawn to the diseases

which have been classified in Schedule I-A in Rule 3(4), relevant extract whereof reads as follows:-

- *"1. List and classification of diseases which can be contracted by service reproduced from CCS Pension Rules, 1972 are as under:*
- *A. Diseases affected by climatic conditions.*
- *(i) to (vii) xxx xxx xxx*
- *B. Diseases affected by stress and strain.*
- *(i) to (vii) xxx xxx xxx*
- *(viii) Pre-carditis and adherent pericardium.*
- *(ix) Endo-carditis*
- *(x) Sub-acute bacterial-carditis, including infective endocarditis.*
- *(xi) Myocarditis - acute or chronic."*

Learned counsel urges that the diseases at serial nos. (viii), (ix), (x), (xi) relate to the heart and have been recognised that stress and strain of service may result in cardiac problems. In the case of the petitioner, who was otherwise very healthy, he developed such a cardiac problem as resulted in his death. It has to be held that the ailment of deceased Superintendent Ram Kishan was directly relatable to his service. The objection of the respondents to the same are clearly devoid of any legal merit.

7. The petitioners have submitted that given the nature of duties which are performed by the personnel of GREF, Late Superintendent Ram Kishan, during his service, largely served in the field areas of the country which included high altitude and mountain region. It has been urged that the climatic conditions in which he was working had certainly taken a toll on his body especially on account of the continuous exposure to such conditions. The tabulation of Late Sh. Ram Kishan's postings is not disputed which manifests the

above averments made by the petitioners. Late Superintendent Ram Kishan was therefore subjected to extreme conditions in his service.

8. In support of the contention that the heart attack suffered by Superintendent Ram Kishan was directly attributable to the service, reliance has also been placed before us on the pronouncement of this court reported at 2005 (3) SCT 458 Mrs. Manju Tewari v. UOI and Ors. wherein the court was concerned with grant of liberalized family pension in respect of the death of an army jawan in similar circumstances. Reliance has also been placed on the Division Bench pronouncement reported at 2006 (92) DRJ 390 (DB) Samaj Kaur v. UOI and Ors. wherein this court was concerned with grant of special family pension to the petitioner whose husband had died while in service with the defence secretary corps in the army within duty hours on account of his suffering a heart attack. It may be noted that in this case, even the medical experts had ruled in favour of the disease being attributed to military service.

9. To further press the submission, our attention is drawn to orders dated 22nd November, 2001 passed in favour of one Smt. Kamla Devi, widow of late Head Constable GD Mukhtiar Singh of the ITBP, which is also a para military force. It is pointed out that GD Mukhtiar Singh had died on 15th June, 1999 due to cardio-respiratory arrest. The Chief Medical Officer has accepted the entitlement of the widow to extraordinary pension under the provisions of the CCS(EOP) Rules. The ITBP had consequently issued the orders dated 22nd November, 2001 in this behalf. It is contended that late Smt. Dhanpati Devi was similarly placed.

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13. In view of the above, we are of the view that late

Smt. Dhanpati Devi was entitled to extraordinary pension in accordance with the provisions of the Central Civil Service (Extra Ordinary Pension) Rules with effect from 19th June, 2008 (when Superintendent Ram Kishan expired) till her death on 6th September, 2010.

A similar view has been expressed by this Court in **Smt. Kunta Devi's case (supra)**. The relevant extracts of the same read as :

“8. There is no denial to the fact that the petitioner was on duty at the time when he suffered heart attack and died. It is also not disputed that he was serving in the disturbed area and was on night patrol duty. Therefore, the issue of his being on duty is not in dispute. The only question that has to be determined is as to whether death, on account of heart attack, while on duty, could be attributable to natural causes or could it be attributed to the Government service. If the Government of India orders, category A, upon which reliance has been placed by the learned counsel for the respondent, is to be perused, then it becomes manifestly clear that the rules contemplate the grant of extraordinary pension to an incumbent in the event of death or disability not due to natural causes, and attributable to Government service and denial thereof to causes that have been classified as chronic ailments like "heart and renal diseases, prolonged illness, accidents while not on duty". Therefore, it becomes abundantly clear that if an ailment like heart disease etc. are suffered by an incumbent of the services while not on duty, then he shall not be entitled to any extraordinary pension, on account of any fall-out of such a disease. But if the person is on duty and in the process suffers a heart attack and such condition of heart has not been traced to natural cause earlier, to mean a continuous

neglective condition or a prior treated condition, then in such an eventuality, the possibility of the personnel of the armed forces suffering such a problem, resulting in his death, cannot be stated to be not on account of Government service. It is not the case of the respondents that the petitioner was earlier suffering from such a condition and that such a condition was detected or was being treated. Therefore, the possibility of the husband of the petitioner suffering such a condition on account of stressful conditions, created on account of his posting, cannot be ruled out. Even if there was a prior condition of heart and the same was aggravated due to his being on duty, even then the incumbent would have been entitled to extraordinary pension.”

7. The case of the petitioner is squarely covered by afore-cited judgments and respondents have failed to show any contradictory law/view.
8. In the wake of above discussion and findings, the present petition deserves to be allowed and accordingly allowed. The impugned order dated 16.11.2018 (Annexure P-8) is hereby set aside. The respondents are directed to release extraordinary pension to the petitioner within 06 months from today.

03.11.2023
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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No