

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

250 (4 cases) CM-14873-CWP-2023 IN/AND
CWP-11945-2021 (O&M)

RAJPAL ... Petitioner
VERSUS

UNION OF INDIA AND OTHERS ... Respondents

CM-14736-CWP-2023 IN/AND
CWP-11948-2021 (O&M)
RAJESH KUMARI ... Petitioner
VERSUS

UNION OF INDIA AND OTHERS ... Respondents

CM-14737-CWP-2023 IN/AND
CWP-11954-2021 (O&M)
BEDO DEVI ... Petitioner
VERSUS

UNION OF INDIA AND OTHERS ... Respondents

CM-14738-CWP-2023 IN/AND
CWP-11959-2021 (O&M)
Date of Decision: 04.09.2023

SATBIR SINGH PUNIA ... Petitioner
VERSUS

UNION OF INDIA AND OTHERS ... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sandeep Kumar, Advocate and
Mr. Divyam Singh, Advocate
for the petitioner(s).
Mr. Sunil Sharma, Advocate
for respondents No.1 to 3
in CWPs-11948 and 11945 of 2021.

Ms. Anilta Balyan, Advocate
for respondents No.1 to 3
in CWPs-11959 and 11954 of 2021.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

CM-14873-CWP-2023 IN CWP-11945-2021

CM-14736-CWP-2023 IN CWP-11948-2021

CM-14737-CWP-2023 IN CWP-11954-2021

CM-14738-CWP-2023 IN CWP-11959-2021

These are the applications for placing on record the replications to the written statements filed by respondents No.1 to 3 in the respective petitions alongwith Policy dated 03.02.2000 as (Annexure P-20) and for exemption from filing certified copy thereof.

For the reasons mentioned in the applications, the same are allowed subject to all just exceptions.

The replication and the policy dated 03.02.2000 are ordered to be taken on record.

Registry is directed to tag the same at an appropriate place of the paper book and page mark the same.

MAIN CASES

A batch of four writ petitions is being decided by a common order as the parties agree that the issues involved therein are identical and can be decided by a common order.

For the facility of reference, the facts are being extracted from CWP-11945-2021 titled as 'Raj Pal Vs. Union of India and others'.

Prayer made in the above petition is for issuance of directions to the respondents to declare Navjot Singh late son of the petitioner as a battle

casualty and to grant him the status of a martyr having made supreme sacrifice while controlling fire at Central Ammunition Depot (CAD) Pulgaon, District Wardha, Maharashtra on 31.05.2016.

Counsel for the petitioner contends that late Navjot Singh was working on the post of Fireman in Indian Army and was posted at Central Ammunition Depot (CAD) Pulgaon, District Wardha, Maharashtra. The abovesaid post is civilian post in the Indian Army.

On 31.05.2016, a massive fire broke out in store house No.92 of the Central Ammunition Depot (CAD) Pulgaon, District Wardha, Maharashtra resulting in detonating 1,35,275 Kgs of explosive and mines. The son of the petitioner, being posted in the fire services at that place, had to rush to the spot to control the fire and to check any further damage/casualty that may be caused. However, in the said process of controlling fire, there were as many as 19 casualties while 17 persons suffered grievous injuries. Navjot Singh son of the petitioner succumbed in the said incident and was amongst the 19 casualties.

A Court of Inquiry was held into the above said incident and it submitted its finding dated 21.06.2016, which reads thus:

- "1. I concur with the findings, opinion & recommendations of the Court of inquiry.
2. The most probable cause of the fire was excessive exudation (bleeding) of TNT reacting with metallic container leading to self ignition (spontaneous combustion) of segregated AMK No. 881A, Mine Anti Tank ND 1A held in store house No. 192. This has apparently led to the explosion, thus leading to injuries and death of personnel of CAD Pulgaon.

3. *Inadequate quality control at the time of manufacture has been the cause of exudation during storage, soon after manufacture.*
4. *Lapses/errors on part of those involved in the manufacture, quality control and assurance must be held accountable for the defects in Mine Anti Tank ND-1 AMK 881 A which led to the exudation and subsequent self ignition of the mines, leading to accident at Central Ammunition Depot, Pulgaon on 31 May, 2016.*
5. *Accident could have been avoided if there was no inordinate delay in replacement of the mines under warranty by Ordnance Factory Board, who continued insisting of repairs, in spite of repeated failures as against advice by CQA (Amn) & (ME). Necessary actions be initiated against the agencies at appropriate level.*
6. *The Court of inquiry, as also the technical members in attendance namely, the representatives of CQA (A) Kirkee, CQA (ME) & representative of CFEES have given very comprehensive and exhaustive recommendations on improvement and remedial measures for CAD, Pulgaon, These must be meticulously examined by the MGO and the DGOS and necessary actions taken at Army HQ, in consultation with MoD to implement these at the earliest. The recommendations related to the quality of amn/explosives being manufacture at Ordnance Factories, their contractual obligations and adhering to strict quality control to avoid recurrence of such accidents, must be considered for implementation, on priority.*
7. ***The personnel involved in preventing further damage, due to their initiative against difficult odds, in combating the fire, has been noteworthy and deserves special mention.***

8. ***I recommend that all 19 fatal and 17 non fatal casualties to include combatant DSC & DFS personnel be classified as "Battle Casualties."***

(emphasis supplied)

He submits that the Court of Inquiry thus recommended all 19 fatal and 17 non-fatal casualties to be included and classified as battle casualties. The above said proposal was forwarded by the Court of Inquiry to the Ministry of Defence, however, the benefit of battle casualty was extended only to six personnel who died and not to the remaining personnel on the premise that the above six casualties were Army personnel, whereas the petitioners being civil employees, cannot be granted the Liberalized Family Pension under the instructions issued by Ministry of Defence, Government of India. Reference is made to the following extract of the Liberalized Family Pension notified by the Ministry of Defence to claim the benefit:

"6. LIBERALIZED FAMILY PENSION (LFP):-

- 6.1 *In case of death of an Armed Forces Personnel under the circumstances mentioned in category "D" & "E" of Para 4.1 above, the eligible member o the family shall be entitled to Liberalized Family Pension equal to reckonable emoluments last drawn as defined in Para 3.1 above, both for officers and PBOR. Liberalized Family Pension at this rate shall be admissible to the widow in the case of officers and to the nominated heir in the case of PBOR until death of disqualification."*

The petitioners thus pray for a parity treatment to them as well with other six Army personnel since they all had lost their lives in the same incidence.

A written statement on behalf of respondents No.1 to 3 had been filed wherein, while admitting the factum of the fire in the ammunition store and the consequent fatalities suffered, it was submitted that the status of a battle casualty or “Martyr” could not be granted to the deceased son of the petitioner as he was a uniformed civilian employee and not a military personnel as per the letter issued by the Integrated Headquarter of the Ministry of Defence dated 05.07.2019. The six persons, to whom the battle casualty status and the benefit of Liberalized Family Pension had been extended, were military personnel. The son of the petition being a uniformed civilian employee, could not be considered under the said policy/instructions, being governed by different set of regulations/instructions.

In response thereto, the counsel for the petitioner has referred to the document (Annexure P-20), which is a Letter (OM) No.45/22/97-P&PW(C) dated 03.02.2000 issued by the Government of India, Ministry of Personal, Public Grievances & Pensions concerning special benefits of Family Pension under Category D & E. It is further averred that a letter similar to the liberalized family pension extended to the military personnel has also been issued with respect to the civilian employees and that he would not press for the liberalized family pension as per the instructions issued by the Ministry of Defence and would confine his prayer to the extent that the respondents be directed to consider the case of the petitioners as per the Family Pension under Category D & E of the letter dated 03.02.2000 (Annexure P-20) issued by the DOPT. The relevant extract of the said letter is as under:

“II. FAMILY PENSION UNDER CATEGORY 'D' & 'E'

- (1) *Family pension in cases, falling under categories D & E shall be determined under the existing provision of Liberalised Pensionary Awards Scheme.*
- (2) *If the Government servant is not survived by widow but is survived by Child/children only, all children together shall be eligible for family pension at the rate of 60% of basic pay subject to a minimum of Rs. 2500/- Children allowance, as admissible now, shall stand abolished.*
- 3) *When the Government servant dies a bachelor or as a widower without children, dependent pension will be admissible to parent without reference to pecuniary circumstances, at the rate of 75% of pay last drawn if both parents are alive and at the rate of 60% if only one of them is alive.”*

Counsel for the respondents, however, contends that the aforesaid prayer can only be considered by the concerned Ministry. Since the claims of the military personnel are to be dealt with by the Ministry of Defence, the claims of uniformed civilian employees are to be dealt with by the Ministry of Personal, Public Grievances and Pensions. She further contends that the petitioner would be required to submit an appropriate application/representation to the Competent Authority in terms of the aforesaid instructions.

Faced with the above, counsel for the petitioners does not press the instant petitions at this stage and prays for liberty to submit a claim for liberalized family pension under the aforesaid letter dated 03.02.2000 (Annexure P-20) for grant of family pension under Category D & E to the Competent Authority in the DOPT. The said prayer is not opposed to by the counsel for respondents.

The present petitions are accordingly disposed of without commenting on merits of the present cases and without impleading the DOPT as respondent, in view of the order which this Court proposes to pass. The petitions are hence disposed of as not pressed at this stage with liberty to the petitioners to submit their claim for family pension in terms of communication dated 03.02.2000 to the Competent Authority.

In the event of the aforesaid claim being filed by the petitioners within a period of four weeks from the date of receipt of certified copy of this order to the Competent Authority, the same shall be considered expeditiously and a decision shall be taken thereupon within a period four months from the date of receipt of aforesaid representation/claim, complete in all respects.

Needless to mention that in case the petitioners are found entitled to the family pension in terms of the aforesaid letter dated 03.02.2000 (Annexure P-20), the necessary benefits alongwith the arrears shall be released henceforth to the petitioners within period of three months thereafter failing which the petitioners shall be entitled to interest for delayed payment @ 6% per annum from the date of submission of the application till its disbursement.

Petitions stand disposed of accordingly.

Photocopy of this order be placed on the files of other connected cases.

SEPTEMBER 04, 2023

rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No