

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

206 (4)

**CWP-10334-2017
Date of decision: 24.01.2023**

KELA DEVI & ANOTHER

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present:- Mr. Vinod Bhardwaj, Advocate
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The present writ petition has been filed seeking quashing of the status reports of the petitioners appended as Annexure P-5 and P-6 respectively vide which the status of the petitioners has been updated in the Government record being ineligible for availing Old Age Pension under the Samman Scheme.

2. Briefly summarized the case of the petitioners is that they had been released old age pension w.e.f. 2014 and 2010 respectively and that they fulfilled the requisite eligibility conditions being more than 60 years prescribed under the Old Age Samman Allowance Scheme that had been introduced by the respondent-State of Haryana. A letter dated 10.10.2016 was issued by respondent No.6 whereby the petitioners were called upon to furnish proof of their age. Upon receipt of the letter, the petitioners submitted copies of their Aadhar Cards to the office of the respondents as a proof of their age and as per the abovesaid proofs the date of birth of

petitioner No.1 was 01.01.1954 while the date of birth of petitioner No.2 was recorded as 01.01.1945 and as such they claimed to be more than 60 years of age on the date of claiming pension and were duly entitled to the grant of old age pension. It is alleged that despite the aforesaid documents having been submitted by the petitioners, the respondents have updated the status as per which the petitioners are entered as ineligible and have discontinued their old age pension. The said record is assailed in the present petition.

3. Written statement by the respondents has been filed wherein a specific stand had been adopted by the respondents that the petitioners had availed the benefit of old age pension illegally and by committing fraud on the department. The relevant facts relating to the age were concealed. The petitioner No.1-Kela Devi had sought the benefit of old age pension on the strength of the Voter ID-Card issued by the Election Commission of India whereas no such Voter ID-Card number was found online on the portal/Site of the Chief Electoral Officer, Haryana. The online status of the Voter ID HR-02/26/0117231 has been attached as (Annexure R-1) as per which there is no such record in the office of Chief Electoral Officer against the said Voter ID. It was also pointed out that insofar as claim of petitioner No.2-Chawla Ram is concerned, his entry of birth had been obtained from the Principal of Government School, Kheri Raiwali and that in the said certificate, the date of birth of the petitioner No.2 has been recorded as 10.12.1960 as against the date of birth 01.01.1945 claimed by the said petitioner. Resultantly, even the said petitioner was not eligible for grant of benefit under the Old Age Samman Allowance Scheme notified by the Govt. of Haryana. Since the petitioners did not fulfill the age requirement of being

more than 60 years to be eligible for release of the pension, the allowance had been ordered to be discontinued.

4. The said response was filed by the respondents in the year 2018 and no rejoinder controverting the said specific factual stand has been filed by the petitioners. Hence, the facts pleaded by respondents in their written statement remain undisputed.

5. Learned counsel appearing for the petitioners contends that they had submitted their Aadhar Cards in support of their age proof and that as per the same Card, the date of birth of the petitioner No.1 is 01.01.1954 while the date of birth of petitioner No.2 is 01.01.1945 and hence, they fulfilled the eligibility conditions. He contends that the pension to petitioner No.1 was released in the year 2014 while to petitioner No.2, it was released in the year 2010. He submits that the aforesaid documents are the only document as proof of their age and that the said documents ought to have been relied on by the respondent-department for determining their eligibility for pension and for releasing of the benefit to the petitioners more so since the same is a social welfare scheme. A liberal interpretation ought to be adopted in such matters and benefit admissible to them be restored.

6. Per contra, counsel for the respondent-State has pointed out that merely because a scheme is socially benevolent, it cannot be the basis for allowing an ineligible person to claim the benefits. He contends that the financial implications are taken into consideration by the State Government while determining the beneficiaries under a scheme. The persons who are ineligible and disentitled under the eligibility criteria prescribed as per the scheme cannot claim the said benefit and plead vesting of an accrued right in their favour to retain benefits that were illegally obtained. He further submits

that it is wrong that the petitioners had the Aadhar Card as the only proof of their age & had submitted the same at the time of submitting their claim. The petitioner No.1 had in fact placed reliance on the Voter ID Card issued by Election Commission for securing the benefit of pension and that on verification, the said Voter ID was found to be non-existent & was hence fake. The factual assertion made by the respondents was not controverted or denied by the petitioner by filing any supporting document. Hence, there was no valid document as regards proof of age furnished by the petitioner to establish that he fulfilled the eligibility conditions for availing the benefit under the scheme.

7. In response to petitioner No.2, the respondents have referred to the certificate issued by the Principal of the Govt. Primary School showing the date of birth of the petitioner as 10.12.1960. It is thus submitted that even the said certificate has not been controverted or denied by the petitioner. Hence, the petitioner No.2 was only 50 years of age in the year 2010 while the age requirement is 60 years. Once the factual aspect has remained uncontroverted, there can be no basis for holding that the report submitted by the respondents was incorrect or that the petitioners were wrongly declared ineligible for the benefits under the Old Age Pension Samman Allowance Scheme.

8. I have heard learned counsels appearing on behalf of the respective parties and have gone through the documents relied upon by them.

9. The terms and conditions of the scheme remain undisputed. A person must be of an age of 60 years and above to be eligible for availing the allowance. The eligibility criteria prescribed thereunder reads thus:-

A) Eligibility Criteria

At present, any person is eligible for the grant of Old Age Samman Allowance, if

- i) The person is of age 60 years or more;*
- ii) The person is domicile and resident of Haryana State; and his/her income from all sources together with that of his/her spouse does not exceed Rs. 2,00,000 per annum.*

The petitioners have been held ineligible on the ground of age and not on the other parameters.

10. The basic rule of interpretation is that a policy document is to be read as a whole. The eligibility conditions prescribed therein can not be ignored. Any person claiming benefit under a policy must establish that he fulfills the condition on eligibility as prescribed. The policy does not provide for any relaxation of the said essential conditions. The burden to prove eligibility is on the person claiming the benefit and no negative burden can be put on the State. The petitioners cannot be permitted a perfection of claim in their favour merely because they succeeded to deceive the system and availed the benefit of allowance. Failure to fulfill the eligibility conditions would disentitle the petitioners to seek disbursement of the allowance. The petitioners relied on documents as a proof of their age, which such documents were either invalid or wrong. It cannot be presumed that the petitioners were unaware of the documents being forged or invalid and were under any bona fide impression. No document to counter the reply of State was filed. The same shows that the petitioners consciously submitted a claim for an allowance to which they were not entitled. A conscious and deliberate attempt to violate requirement of law and to avail a wrongful gain is not to be condoned by any undue display of equitable indulgence.

Condonation of such breaches leads people to believe that an illegality pays had prompts others to indulge in similar acts of breach of law. Indulgence is to extended in favour of the one truly deserving and not as a means to confer premium on a violator.

11. The petitioners have failed to discharge their burden or to establish that the order suffers from any illegality or error. There is thus no preversity in the action of the respondents and the petition deserves to be dismissed.

12. Passing of the above present order shall however not operate as a bar against any subsequent rights that may have accrued in favour of the petitioners to avail benefits under the scheme.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 24, 2023

Vishal Sharma

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