

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206 (1)

Date of decision: 24.01.2023

CWP-3731-2017

ROSHNI DEVI & OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

(2)

CWP-4973-2017

RUMALI DEVI & ANOTHER

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

(3)

CWP-5993-2017

JANGIRA

.....Petitioner

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 petition shall dispose of 03 writ petitions bearing *CWP No. 3731 of 2017* titled “*Roshni Devi & Others versus State of Haryana and others*”; *CWP No. 4973 of 2017* titled “*Rumali Devi & Another versus State of Haryana and others*” and *CWP No.5993 of 2017* titled “*Jangira versus State of Haryana & Others*” as counsel for the parties submitted that common questions of law arise for determination on the present set of writ petitions. For convenience, the facts have been referred from *CWP No. 3731 of 2017* titled “*Roshni Devi and Others versus State of Haryana and Others*”.

2. Briefly summarized the facts of the case are that the petitioner No.1 & 2 are wife and husband aged 64 and 65 years respectively and had been granted the benefit of Old Age Pension under the social security scheme issued by Government of Haryana. It is contended that petitioner No. 3 is an 80 years old person. The petitioners claimed that they had been found eligible for grant of Old Age Pension Scheme under the Old Age Samman Allowance Scheme floated by the Govt. of Haryana and the said pension had been released to them from 2015 till the passing of the impugned order whereby the pension scheme was discontinued and an order of recovery had been ordered.

3. Counsel for the petitioners submits that such withdrawal was illegal and that the petitioners being old aged and infirm are entitled to continuation of the pension under the Old Age Samman Allowance Scheme of the Govt. of Haryana.

4. Written response on behalf of the respondent-State had been filed wherein a specific stand has been taken that as per the scheme issued by the State Government and notified on 22.03.2012, for a person to be eligible for the benefit of Old Age Samman Allowance Scheme, his income from all sources should not exceed Rs. 2 lakh per annum. The said limit had been increased from the erstwhile of Rs. 50,000/- . He contends that a report as regard the income of the petitioners was called from for the halqa Patwari and verified by the concerned Naib Tehsildar as per which the income of the petitioners were found to be more than Rs. 2 lakhs . Hence, the order was passed to discontinue the benefit of pension extended to the petitioners.

5. Learned counsel appearing for the petitioners has argued that the social security scheme-Old Age Samman Allowance Scheme prescribed the eligibility criteria of 60 years or more of age and that the person should be domicile of State of Haryana. He does not dispute the prescribed eligibility that the income from all sources for such beneficiary and/his or her spouse should not exceed Rs. 2 lakhs. It is averred by the counsel for the petitioner No.1 & 2 that petitioners jointly own 60 kanals of land whereas petitioner No.3 owns approximately 79 kanals 14 marlas. He however submits that the petitioner No.3 has 05 sons and that his gross income from all sources thus cannot be construed to exceed Rs. 2 lakhs.

6. Refuting the arguments advanced by the counsel for the petitioner, learned State counsel has submitted that the benefits under the scheme are admissible in terms of the eligibility requirements prescribed therein. It is not in dispute that the petitioners own the respective land holdings and that the same stands in their name. The utilization of the income derived is inconsequential for computing eligibility of a person

under the scheme. Resultantly, merely because the income derived is being utilized by the petitioner for the wellness of his family, it cannot be interpreted to be a ground to impugn the order that has been passed strictly as per the parameters of the scheme. He further contends that the petitioners do not dispute the land holding and its verification by the concerned Naib Tehsildar on the report sought by the Social District Welfare Officer. The aforesaid response had although been filed by the respondent-State in February, 2018, however, there is no replication filed by the petitioners controverting the stand of the State and the documents attached.

7. I have heard learned counsels appearing on behalf of the respective parties and have gone through the pleadings and the documents appended alongwith the present petition, with their assistance.

8. The social security scheme document has been appended alongwith the present petition as Annexure P-1. 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.*

9. It is evident from a perusal of the above that in order to be eligible for claiming an Old Age Samman Allowance Scheme, the person is required to fulfill twin conditions i.e. he should be more than 60 years of

age, domicile and resident of Haryana and that his income from all sources together with that of his/her spouse should not exceed Rs. 2 lakhs. The aforesaid conditions are required to be satisfied before any person can claim release of the allowances and plead eligibility under the same. The income of the spouse is also computed for assessing the total income from all sources. It cannot be construed that the income must exclude any probable income or the income that would generally arise from the land holdings. The scheme also does not provide any exception on the basis of any utilization of the said income or provide an exemption on the basis of any house holding/family size before being deemed eligible under the said scheme. In the absence of any such exemption or pre-requisites or exception stipulated in the scheme that the family size of a person is required to be seen, no such clause can be introduced in the said scheme by way of judicial interpretation.

10. A scheme document has to be read the way it is. It is also apparent that the aforesaid scheme or the eligibility conditions as prescribed therein are not a subject matter of the challenge. The land holding of the petitioner has also not been disputed by the petitioners and the report submitted by the Naib Tehsildar remains uncontroverted despite the same having been filed for a period of more than 05 years. Once the factual aspect pertaining to the land holding of the petitioners alongwith report submitted by the Naib Tehsildar pertaining to the income of the petitioners from all sources having remained uncontroverted, there is no reason for setting aside the order that has been passed strictly in accordance with the scheme.

11. 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.

12. 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 and prompts others to indulge in similar acts of breach of law. Indulgence is to be extended in favour of the one truly deserving and not as a means to confer premium on a violator.

13. At this juncture, counsel for the petitioners has contended that the recovery of the pension that has been drawn by the petitioners during the pendency of the present petition may however be protected. Counsel for the respondent-State has drawn attention to the affidavit that has been submitted by the petitioners as per which it has been specifically averred that in the event of the present petition failing to succeed, the petitioners shall be bound to deposit the pension availed by them. Consequently, the aforesaid prayer cannot be exceeded to at this juncture in light of the specific affidavits filed by the petitioners.

14. Finding that the action of the respondents-authorities is strictly in accordance with the criteria prescribed under the scheme, I find that there

is no fault in the order. It suffers from no illegality or perversity.

15. The present petitions are accordingly dismissed.

16. Needless to mention that the present order shall have no bearing on any further right that may accrue in favour of the petitioners for seeking any other benefit.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 24, 2023
Vishal Sharma

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