



W.P.(MD) No.14574 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.14574 of 2022

R.Sunitha Nelson

...

Petitioner

-vs-

1. The Commanding Officer,
Office of the Commandant,
HQR 49 Battalion BSF,
Gogoland, Srinagar,
C/O 56 APO

2.The Senior Accounts Officer,
Pension - V Section,
Pay and Accounts Division BSF,
Pushpa Bhawan, Madangir,
New Delhi - 110062.

3.The Central Pension Accounting Officer,,
CPAO, Department of Expenditure (MOF),
Trikoote-II Complex, Bhikaji Cama Place,
New Delhi - 110066. ...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India,
praying for issuance of a writ of mandamus directing the respondents to pay



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the terminal benefits on account of the deemed death of the petitioner's husband namely D.Nelson (BSF, Ex-Constable No.891992778) and disburse arrears of pension and family pension and all other monetary benefits under law with interest.

For Petitioner : Mrs.K.Vidya

For Respondents : Mr.V.Malaiyendran

ORDER

The instant Writ Petition has been filed by the wife of a missing army personnel, seeking a mandamus for disbursement of family pension.

2. The petitioner's husband, who was working as a Constable in Border Security Force, had voluntarily retired from service on 30.11.2010 and he was said to have boarded train No.2508 – Gauhati-Ernakulam Express at Jalpaiguri Railway Station on 03.12.2010 at about 04.00 p.m., along with two other retired constables. However, on the way, he got down at Kolkata Railway Station and went missing. The BSF officials lodged a police complaint before Bena Pauker Police Station on 04.12.2010 and Lal Bazar Police Station,



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Kolkata (West), on 06.12.2010. However, they were not able to trace the whereabouts of the husband of the petitioner. These facts were informed to the writ petitioner by the Office of the Commandant, 49th Battalion, BSF, Raninagar, Jalpaiguri, West Bengal, on 22.04.2011.

3. On 19.05.2011, the Office of the Commandant, 49th Battalion, BSF, Raninagar, Jalpaiguri, addressed a letter to the writ petitioner to the effect that she has to produce the following documents so that they can process the request of the petitioner for family pension :

(1) Copy of FIR lodged with the nearest police station regarding missing of petitioner's husband ;

(2) Indemnity Bond that all payments shall be adjusted against the payments due to the employee in case he appears on the scene ; and

(3) A report from the Police Station concerned, that the retiree could not be traced.

4. Based upon the above said letter, the writ petitioner made an attempt to lodge a police complaint before the nearest Police Station in Tamil Nadu, but, however, the police authorities concerned refused to register a man



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missing complaint, on the ground that the petitioner's husband had gone missing in Kolkata. Hence, the petitioner addressed a communication to Bena Pauker Police Station as well as Lal Bazar Police Station on 01.12.2011, requesting them to initiate necessary steps for registering an FIR and issue a certificate to the effect that her husband was not traceable, despite their best efforts. However, there was no response from the Police Stations concerned. Therefore, the present Writ Petition has been filed, seeking a mandamus as against the respondent authorities for disbursement of family pension.

5. The events narrated above will clearly indicate that the petitioner's husband had gone missing in the state of West Bengal while he was on his way to hometown after voluntary retirement. Several efforts were taken by BSF Department to trace the petitioner's husband by approaching two police stations, however, they were not successful. In turn, the BSF authorities had requested the petitioner to lodge a police complaint with her nearest Police Station. The efforts of the petitioner were not successful due to jurisdictional issues. The petitioner also made an attempt to lodge a complaint before the Police Stations in Kolkata, which also did not evoke any response.



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6. A perusal of the typed set of papers indicates that an Interim Non-Traceability Report has been issued by the Deputy Commissioner of Police-II, Detective Department, Lal Bazar, Kolkata, on 08.07.2011. Therefore, this Court is of the considered opinion that the said Interim Non-Traceability Report could be taken into consideration by the respondent authorities for releasing family pension in favour of the writ petitioner, for which, the writ petitioner is directed to forward a copy of the Interim Non-Traceability Report and the Indemnity Bond, as called for by the respondents herein in their letter, dated 19.05.2011, to the first respondent herein. On receipt of the same, the first respondent is directed to process the family pension papers of the writ petitioner and pass orders within a period of twelve weeks from the date of receipt or production of copy of this order.

7. Writ Petition stands disposed of accordingly. No costs.

13.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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