

2024:PHHC:159597-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-3676-2023
Reserved on: 12.11.2024
Pronounced on: 29.11.2024

OMVATI DEVIPetitioner

Versus

UNION OF INDIA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Navdeep Singh, Advocate with
Ms. Roopan Atwal, Advocate and
Ms. Srishti Sharma, Advocate
for the petitioner.

Ms. Anita Balyan, Advocate
for the respondent – UOI.

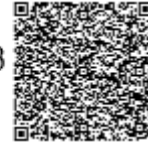
SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein prays for the setting aside of the order dated 08.03.2021 (Annexure P-1), as passed by the learned Armed Forces Tribunal concerned, whereby, the prayer made by the petitioner for the grant of Special Family Pension to her was denied.

Factual Background

2. The husband of the petitioner namely, Hav Ramvir, was enrolled in the Army (Corps of Signals) on 16.08.1983. He was

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allegedly murdered by Signalman PK Dey of the same unit on 02.01.2003 to prevent unnatural sex, as became attempted upon him, by the deceased husband of the petitioner. The petitioner was granted ordinary Family Pension. She moved an application for grant of Special Family Pension, which was rejected by the PCDA (Pensions) Allahabad, thus, on the ground that the death of her late husband was owing to the wound/injury, which was neither attributable to nor became aggravated by military service. She submitted an appeal against the order of the PCDA(Pensions) Allahabad, which was vide order dated 06.07.2011 also rejected by the Ist Appellate Authority, on the ground that the death of her husband was not in any way related to military duties, and, therefore is not attributable to military service.

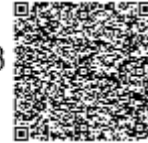
3. Feeling aggrieved, the petitioner filed O.A., before the Tribunal concerned for the grant of Special Family Pension. However, the learned Tribunal vide order dated 08.03.2021 dismissed the said O.A., while concluding *that the death of the late husband of the applicant has no causal connection with the military service, so she is not entitled to any special family pension.*

4. Feeling dis-satisfied from the afore dis-affirmative order, the petitioner has filed thereagainst the instant writ petition.

Inferences of this Court.

5. Admittedly, the husband of the present petitioner while being stationed on duty with the Armored Brigade Signal Company, Ratnu Chak, was murdered by a co-soldier namely Sigmn Parshant

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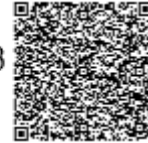


Kumar Dey. The trial in respect of the offences (supra) became conducted by the Court of 1st Additional Sessions Judge, Jammu. On conclusion of the said trial, a verdict of acquittal became recorded.

6. Though, it is contended by the present respondent that the accused soldier though propagated that in his committing the offence of murder, he became instigated by an ill act of the deceased soldier, comprised in his attempting to make him succumb to his desire of his indulging in un-natural sex with him. However, a reading of the verdict passed by the learned 1st Additional Sessions Judge, Jammu, which becomes appended with the instant writ petition, rather does disclose, that the said defence was neither propagated nor the said defence became accepted. In consequence, the said plea is deemed to be holding no credit worthiness.

7. Be that as it may, since un-controvertedly, the deceased soldier was murdered by co-soldier Parshant Kumar Dey, while his performing duties with the Armored Brigade Signal Company, Ratnu Chak. Therefore, his demise is to be declared to be holding a causal connection with his rendering military service. The said conclusion, is but, invincible and was required to be so drawn even by the learned Tribunal in the O.A. (supra). However, the Tribunal concerned without bearing in mind the above factum, thus on mere surmises concluded, that there was no causal connection inter-se the performance of duties by the deceased soldier, thus with his being murdered by a co-soldier, despite reiteratedly when the said commission of murder occurred

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during the performance of duties by the deceased soldier with the Armored Brigade Signal Company, Ratnu Chak. Resultantly therebys there was but the apposite inter-se causal connection besides the lethal assault thus was attributable to rendition of military service.

8. If the above inference is not recorded, thereupon, the family members of the deceased soldier, who faces a fatal assault from a co-soldier, and that to while his performing duties, but would be deprived qua the benefits of Special Family Pension. Since the said benefits are to be endowed to the surviving family members of the deceased soldier, who suffers fatal injuries, while his evidently performing duties. However, if they are yet denied the same, it would result in unjust snatchings of the rights ensuing to the surviving members of the deceased soldiers. Moreover, even the denial on supra premise rather is not so explicitly stated in the relevant regulations, which become extracted hereinafter. Therefore, the denial founded on the above conjectural reasons is required to be discountenanced.

Special Family Pension

213. A special family pension may be granted to the family of an individual if his death was due to or hastened by

(a) a wound, injury or disease which was attributable to military service,

OR

(b) the aggravation by military service of a wound, injury or disease, which existed before or arose during military

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Final Order of this Court.

9. In aftermath, this Court finding merit in the writ petition is constrained to allow the same.
10. The impugned order as passed by the Tribunal concerned, is quashed and set aside but with a direction to the respondents to grant Special Family Pension to the petitioner from the date, the said benefit accrued to her alongwith interest @ 7% per annum.
11. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.11.2024
kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No