



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

249

CWP-2760-2023 (O&M)

Date of decision: 18.09.2024

Bimla

...Petitioner

VERSUS

State of Haryana and another

...Respondents

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

Present :- Mr. Ajay Singh Ghanghas, Advocate for the petitioner.

Mr. Suneel Ranga, DAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the letter dated 06.02.2018 (**Annexure P-11**) issued by respondent no. 2 i.e. District Social and Welfare Officer, Sonipat whereby the old age pension (hereinafter referred as pension) under the Old Age Samman Allowance Scheme (hereinafter referred as Scheme) introduced by the State of Haryana was denied to the petitioner.

Facts of the Case: -

2. Petitioner in the present case had applied for pension under the Scheme introduced by State of Haryana whereby Senior Citizens of Haryana Domicile, in the age group of 60 years and above, were held eligible subject to them fulfilling various other eligibility criteria laid down in the Scheme.



249

CWP-2760-2023 (O&M)

3. Petitioner's application was received in the office of respondent no. 2 vide receipt no. 1337 on 24.06.2013 but she was not considered for the same as her name in the Birth Certificate was Chanda whereas in all the other document such as Aadhar Card, Voter ID Card, Haryana Domicile Certificate or Senior Citizen Card etc. her name was mentioned as Bimla.

4. The petitioner thereafter wrote a letter dated 09.10.2013 to the Tehsildar, Sonipat for verification of her name as Bimla @ Chanda as they being the same women, which such report was given by the Tehsildar, wherein it was mentioned that the name of the petitioner is mentioned as Chanda in birth certificate but now, she is mentioned and referred to as Bimla in Aadhar Card (**Annexure P-7**).

5. After receiving the report from the Tehsildar, the petitioner again applied for the pension before respondent no. 2 and along with the application, she also submitted the report of the Tehsildar, which was received in the office of respondent no. 2 vide receipt no. 2957 dated 10.11.2014 but to her dismay, she was not considered for the same.

6. Petitioner, in order to show her bonafide and in order to get her eligibility settled, got an affidavit dated 20.03.2017 attested by the Executive Magistrate, wherein it was mentioned that Bimla @ Chanda is one and the same lady (**Annexure P-8**).

7. Petitioner submitted her application again for the third time on 14.06.2017 (**Annexure P-9**) and when no response was received, she submitted Complaint dated 30.01.2018 on CM Window seeking action



against respondents for not releasing the pension in her favor despite she being eligible under the Scheme (**Annexure P-10**).

8. After the submission of complaint, petitioner received the impugned letter dated 06.02.2018 (**Annexure P-11**) from respondent no. 2 wherein it was mentioned that since the name of the petitioner in the birth certificate was mentioned as Chanda whereas in other documents her name was mentioned as Bimla and therefore, in lieu of the said discrepancy, the benefit of Scheme was not granted to her.

9. Aggrieved thereof, the present petition was filed.

Arguments by the Petitioner: -

10. Learned Counsel for the petitioner contends that the Scheme was introduced by the State of Haryana for benefit of the people who are domicile of Haryana and are in the Age group of 60 years or above and whose income and that of the spouse together, is not more than 2 lakh rupees per annum. He contends that despite the petitioner fulfilling all the criteria, she was made to run from pillar to post and had to ultimately knock at the doors of this court in order to get what she was legally entitled to.

11. He contends that due to the ministerial approach taken by the respondents, despite the petitioner submitting all the necessary details and clearly proving her entitlement, she has been made to suffer the loss of benefits under the Scheme. He has vehemently argued that the approach of respondent officials in handling of the matter which is under a beneficial Scheme clearly shows their apathy and attitude towards the common people and such conduct should be reprimanded by the courts.



12. He contends that the petitioner was made to apply thrice for availing the benefits under the Scheme and even after doing so and despite submitting all the necessary documents including a report from the Tehsildar as well as affidavit attested from the Magistrate proving her eligibility, till date she has been denied the benefit of the same.

13. He contends that the Scheme was introduced by the State of Haryana to value the old-aged residents and to ensure that they can sustain themselves in a dignified way in the dawn of life and its aim was to ensure Social Security to Old Persons who are unable to sustain themselves with their own resources and are in need of financial assistance. However, despite the object & aim of the scheme being so benevolent, respondent no. 2 has chosen to make sure that the benefits don't reach to those in need and exposing her to humiliation to seek the benefit.

14. No other argument or judgment has been cited.

Arguments by the respondents: -

15. Learned Counsel for respondents contends that the only reason for denial of the benefits of the Scheme to the petitioner in the present case was that the documents submitted by her reflected her name to be different causing apprehension into the mind of the authorities. He contends that it was not that the authorities were negligent in giving the benefits rather it was the petitioner who did not follow the proper channel of name change as per the law applicable and therefore, the submission of affidavit was not considered suitable by the authorities.



249

CWP-2760-2023 (O&M)

16. He contends that even vide letter dated 06.02.2018 it was asked upon by the respondent authorities that since the name in the documents provided by the petitioner are different, she can submit the relevant document establishing her claim entitling her for the benefit under the Scheme by proving that Bimla @ Chanda are one lady and not different individuals.

17. He has vehemently argued that the submission of affidavit duly attested by the Executive Magistrate as well as the report submitted by the Tehsildar is not the proper procedure for establishment of entitlement / name change of an individual. He refers to the procedure regarding name change which was issued by the Principal Secretary to Government of Haryana, Social Justice and Empowerment Department to all the District Social Welfare Officers vide Memo No. 1262-SW (4)-2018 dated 24.08.2018. He contends that under the said communication, it was clearly mentioned that if an individual changes her name after marriage, following things are to be done for the purpose of getting benefits under the Scheme: -

- (1) *The applicant's affidavit shall be attested by the District Court Magistrate or Notary Public and the details of the present name and new name with reason to change, shall be given;*
- (2) *Thereafter, an advertisement in two local newspapers regarding name change in one local newspaper and other in English will be given;*
- (3) *The applicant should get his name printed in the official gazette of the State from the Government Printing Press.*



18. Learned Counsel for the respondents further contends that it was the duty of respondent no. 2 to abide by the rules/regulations/notifications/ guidelines issued by the higher authorities from time to time in regard to the Scheme and therefore it cannot be said that the act of denial was ministerial in nature and the decision taken was a informed one.

19. No other argument or judgment has been cited.

Consideration: -

20. After hearing the arguments of the parties and after going through the records available, the only question that arises before this court is, whether the intent & purpose behind a beneficial Scheme can be sacrificed or defeated at the altar of procedure?

21. It is no doubt true that a procedure “is designed to facilitate justice and further its ends. It is not a penal enactment for punishment and penalty and not a thing designed to trip people up”. Procedures are no doubt devised and enacted for the purposes of advancing justice. Procedures are also laws and are enacted to be obeyed and implemented. The procedure by themselves does not create any impediment or obstruction in the matter of doing justice to the parties. On the other hand, the main purpose and object of enacting procedure is to see that justice is done to the parties. In the absence of procedure dealing with any dispute between the parties, the cause of justice suffers and justice will be in a state of confusion and quandary.

Difficulties arise when parties are at default in complying with the laws of



procedure. As procedure is aptly described to be the hand-maid of justice, the court may, in appropriate cases, ignore or excuse a mere irregularity in the observance of the procedure in the larger interest of justice. Justice means justice to the parties in any particular case and justice according to law. If procedures are properly observed, as they should be observed, no problem arises for the court however depending on the facts and circumstances of a particular case in the larger interests of administration of justice the Court may and the Court in fact does, excuse or overlook a mere irregularity or a trivial breach in the observance of any procedure for doing real and substantial justice to the parties and the Court must pass proper orders which will serve the interests of justice best.

22. It is trite law that procedural lapses cannot be allowed to sanctify miscarriage of justice and they are to be viewed as flexible tool of convenience in the administration of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable. Justice is the goal of jurisprudence, processual, as much as substantive. Processual law is not to be tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are a lubricant and not a resistant in the administration of justice.



249

CWP-2760-2023 (O&M)

23. Having dealt with the importance of procedure and its importance in enhancing the cause of justice, the facts of the present case is a saga of deniability accruing from a Social security scheme introduced by the State for the benefit of its people. The petitioner in the present case did all in her power to avail the benefit for which she was entitled but the wrangles created by the bureaucratic attitude led her to knock the doors of this court.

24. The scheme being beneficial in nature and petitioner having thrice applied for release of the benefits under the Scheme it was incumbent upon the respondent authorities to guide her through the procedure. Petitioner in order to prove her entitlement not only submitted the report of Tehsildar whereby it was clarified that Bimla @ Chanda are one in the same person but also got affidavit attested by the Executive Magistrate for the same purpose.

25. Reliance of the Counsel for the respondents on the procedure regarding name change which was issued by the Principal Secretary to Government of Haryana, Social Justice and Empowerment Department to all the District Social Welfare Officers is not denied upon but the said process of name change has been issued on 24.08.2018 while superseding the earlier orders issued vide the Government letter No. 615-S.W.(4)-2016 dated 16.06.2016 and 879-S.W.(4) 2017 dated 06.09.2017. A query with regard to what was the earlier procedure for the process of proving name change was posed to the counsel for the respondents to which he pleads ignorance. Be that as it may, the petitioner in the present case applied for the entitlement



under the Scheme on 24.06.2013, 10.11.2014 and lastly on 20.03.2017 and to prove that Bimla @ Chanda are one in the same person the petitioner submitted the report of Tehsildar dated 9.10.2013 and also the affidavit attested by the Executive Magistrate on 20.03.2017 which was enough prove in the eyes of law. There is no objection by any person that they are two different persons but for an objection by the respondents.

26. A beneficial scheme to provide benefit is to be construed and applied liberally so that the class for whose benefit such scheme is framed is not deprived of the scheme on some or other technical ground, otherwise the very purpose and object of the scheme shall be frustrated. Therefore, any welfare or beneficial scheme has to be construed liberally so as to advance the object of the scheme. This court in numerous instances have applied the liberal rule of construction in matters related to beneficial schemes to extend the benefits to those entitled based on the purpose and intent of the scheme. A beneficial Scheme which is meant to endow support cannot be belittled by instances of hyper-technicalities. I am of the opinion that a beneficial scheme such as the one in hand should not be fettered or constructed by a rigorous interpretation which tends to deprive the claimants of the benefit to result in virtual frustration or negation of the laudable motive of Scheme itself. A beneficial Scheme having definite social object must be interpreted in a manner consistent with the object that is sought to be achieved.

27. Therefore keeping in view the totality of circumstance and facts of the present case, the present petition is allowed. Respondent authorities are directed to release the benefits under the Scheme to the petitioner from



the date when she first applied and was eligible for the same but the claim was not considered solely on account of difference in name, within a period of three months of the receipt of a certified copy of this order.

18.09.2024

Mangal Singh

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

(VINOD S. BHARDWAJ)
JUDGE