

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-6288-2021 (O&M)
Date of decision: 20.02.2024

Gurdial Singh and another
...Petitioners

VERSUS

The State of Punjab and others
...Respondents

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

Present :- Ms. Harmanpreet Kaur, Advocate for the petitioners.
Ms. Niharika Sharma, AAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 03.12.2018 passed by respondent No.3-the District Social Security Officer, Patiala whereby the old age pension of the petitioners has been discontinued.
2. Learned counsel for the petitioner contends that the Government of Punjab had issued a letter bearing memo No.11/138/2001/655(3SS)3341-3360 dated 25.09.2008 regarding distribution of financial assistance, with the help of Gram Panchayats, including the Old Age Pension scheme for senior citizens. She contends that a male above the age of 65 years and a female above the age of 60 years, are entitled for the pension under the said scheme, however, the said scheme excludes the persons, who themselves or through their children, were having income exceeding Rs.4000/- per month. It is contended that at

the time when the petitioners were granted the benefit of old age pension, petitioner No.1 and petitioner No.2 were of 66 and 64 years respectively and they were found eligible and covered under the aforesaid scheme after due verification by the *Halqa Patwari*. It was mentioned that there was an agricultural land measuring 15 kanals 8 marlas situated in village Gurditpura, Patiala in the name of petitioner No.1 whereas there was no land in the name of petitioner No.2. On the basis of the said verification, the old age pension was sanctioned vide **PLA/136-269 and PLA/135-372** in the names of petitioners No.1 and 2 respectively.

3. Some residents of the village however filed an application before the District Social Security Officer, Patiala in the month of January-2016 pointing out that the petitioners have availed the benefits of old age pension by submitting wrong facts and details as regards their properties. It was submitted that petitioner No.1 was having more than 4 acres of agricultural land in adjacent village Mankapur as well which had been concealed and only a report had been furnished qua the land situated in village Gurditpura, Patiala. Since an agricultural land holding of more than 6 acres was noticed, the same was forwarded to the competent authority for verification and a report was to be submitted till 25.01.2016. An intimation in this regard was also sent to the petitioners to clarify the position and to respond to the allegations levelled. A reminder thereof was also sent on 29.01.2016. Subsequent reminder for submission of proofs of monthly income was sought yet again vide communication dated 18.05.2017. The petitioners however submitted an application before the Tehsildar, Rajpura seeking report from the *Halqa Patwari* as regards the details of their

properties in village Gurditpura, Patiala. A detailed reply to the application was thereafter filed by the petitioners on 24.08.2018 after many reminders and much delay. The District Social Security Officer, Patiala thereafter passed an order on 03.12.2018 whereby the pension of the petitioners was ordered to be stopped. Thereafter, applications were submitted by the petitioners for review of the said order stopping their pension and for not effecting recovery, however, being dissatisfied of in action on the part of the respondent-authorities, the present writ petition has been filed challenging receipt of the recovery notice dated 15.07.2019.

4. The respondents filed their reply stating therein that at the time of submission of application for grant of pension, petitioner No.1 had mentioned in column No.12 of the application that he was only having 14 kanals land and his monthly income was Rs.900/- from all sources. He has given details of his sons Devinder Singh aged 36 years with an income of Rs.500/- per month and an occupation of agriculture and Rajinder Singh aged 34 years with an income of Rs.100/- per month under agriculture operations. Petitioner No.2 (wife of petitioner No.1) was stated to be a domestic worker with no independent source of income. Similarly, the above said details were also furnished by petitioner No.2 in the said application and monthly income has been shown as Rs.1000/- from all sources. She has not given details of her son and has given name of her husband (petitioner No.1) aged 66 years with an income of Rs.800/- per month and occupation of agriculture has been shown.

5. It is further stated that on receipt of the complaint from one Kuldeep Singh, it was verified that petitioner No.1 was owner of land of 16

kanals 3 marlas in village Guriditpur during 2008 to 2016 as per the Jamabandi for the year 2013-2014, he also owned 36 kanals 8 marlas in village Mankapur. The total land holding of the petitioners was thus shown to be total 52 kanals 11 marlas. A report in this regard was also submitted by the Tehsildar, Rajpura, on 19.03.2019. A reference was made to the notification issued by the Govt. of Punjab for determining the eligibility of the persons entitled to receive the pension as per which the monthly income of such persons should not exceed more than Rs.1000/- per month and where husband and wife both are alive, their cumulative income from all sources should not exceed Rs.1500/- per month. Para 7 of the said Scheme also entitled the Government to stop the pension if any information is found to be wrong. The said notification was superseded/amended vide subsequent notification including notification dated 13.06.2017 as per which an applicant who is having maximum 2.5 acre *Nahri/Chahi* land or maximum 5 acres of *Barani* land alone would be eligible for old age pension. Hence, the persons who were holding land beyond 5 acres in case of *Barani* and 2.5 acres in case of *Nahri/Chahi* were ineligible for grant of such pension. Since as per the report of the Tehsildar, Rajpura dated 19.03.2019, the petitioners were owners to the extent of 52 kanals 11 marlas (6 acres, 4 kanals and 11 marlas) of land situated in villages Gurditpura and Mankapur, they were ineligible for grant of pension. Rent of the land being at a minimum Rs.30,000/-per acre alone came to an annual total of Rs.1,95,000/- in the year 2007 and the monthly income of the petitioners was assessed at a bare minimum of Rs.16,250/- in the said year. It was also suggested in the event the land was under the self-cultivating possession of the petitioners,

the income would be nearly twice the above said amount. It was pointed out that petitioner No.1 has shown his income @ Rs.900/- per month while petitioner No.2 has shown it as @ Rs.1000/- per month which such information is wrong and that they concealed the said aspects from the Government and furnished information which was known to them to be false.

6. The above said reply had been filed on behalf of the respondents in 2022, however, despite a lapse of more than one year, no replication to the same has been filed by the petitioner. Hence, the factual aspects narrated and impressed by the respondent-State have remained uncontroverted.

7. Having heard learned counsel for the parties, who repeated the facts noticed above, it is evident that the petitioners did not fulfill the eligibility conditions of owning maximum of 2.5 acres of land in case of *Nahri/Chahai* and 5 acres in case of *Barani* and were owner of more than 6 acres of land as on the date of release of pension. The monthly income of petitioner was also much beyond the minimum limits prescribed by the Government for being eligible for the old age pension. The factual aspects having remained uncontroverted, there is no other evidence on record on the basis whereof it may be held that the said finding recorded is incorrect.

8. A parting argument was raised by the learned counsel for the petitioners that various other persons are also being released the benefit of pension although they are similarly placed, however, upon a consideration of the above said argument, the same cannot be accepted to set aside the order under challenge. There can be no negative parity in violation of law. The

petitioner cannot claim perfection of a right for grant of old age pension merely because some other ineligible person have also been released the said benefit ignoring/in violation of the terms and conditions of the old age pension scheme. The same may, however, be a ground for initiating proceedings for stopping pension of such ineligible beneficiaries. Thus, the parity/negative discrimination sought for cannot be granted by a Court of law.

9. The present writ petition thus deserves to be dismissed at this stage.

10. The present petition is accordingly **dismissed**.

20.02.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

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