



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CWP-11087-2021

Date of decision: 23.09.2024

RAMESH RANI

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: - Mr. S.L. Chander Shekhar, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The petitioner has approached this Court for seeking subsistence allowance, family pension, ex-gratia grant etc., as per the notification dated 10.05.1990 issued by the Department of Relief & Settlement, Punjab, on account of death of her husband killed by terrorists.

2. Learned Counsel appearing on behalf of the petitioner contends that during the period of terrorism in the State of Punjab, Dharampal, husband of the petitioner, who was running a Karyana shop in Village Malliyan had gone to Tarn Taran to purchase the material and goods for the shop. He was given certain injuries by some unknown terrorist at the grain market/Dana Mandi on 04.06.1987. He died as a consequence of those injuries and a death Certificate dated 12.06.1987 was also issued. An FIR into the incident bearing FIR No. 116 dated 04.06.1987 was also registered under Section 302/34 IPC at Police Station City, Tarn Taran. The petitioner



and his children thereafter shifted to Village Dhariwal, Tehsil and District Gurdaspur. She also submitted a representation to the Senior Superintendent of Police Tarn Taran for grant of pension/maintenance allowance, being the widow, which was duly forwarded to the Sub Divisional Magistrate, Tarn Taran who further forwarded the same to Tehsildar/Patwari/Kanungo to report after conducting an inquiry, on 16.01.2019.

3. Additionally, the Sub Divisional Magistrate, Tarn Taran forwarded the request to the Senior Superintendent of Police Tarn Taran on 22.01.2019 regarding the maintenance allowance to the legal heirs of Dharampal who died at the hands of terrorists and for being supplied the copy of the FIR registered with respect to murder of Dharampal by the terrorist on 04.06.1987. The Station House Officer, Police Station City, Tarn Taran, vide his letter dated 01.02.2019, recommended the case of the petitioner for being provided financial assistance. An inquiry was also conducted by the ASI, Police Post Bus Stand in reference to the aforesaid letter and reported that they had verified the claim made by the petitioner and reiterated the manner and cause of death of Dharampal on 04.06.1987.

4. Nonetheless, the pension and subsistence allowance as admissible under the State scheme was not released to the petitioner. Hence, another application was submitted by the petitioner for release of the benefits, however, the respondents called for the copy of the FIR that was registered in relation to the incident. He contends that the said FIR could not be made available since the record of the Police Station stood destroyed over the passage of time.



CWP-11087-2021

-3-

5. He contends that under similar circumstances, this Court has already allowed *CWP-1557 of 2014* titled as “*Surjit Kaur versus State of Punjab and others*” vide order dated 08.09.2016.

6. Learned Counsel appearing on behalf of the respondent-State submits that the claimed benefit under the terrorist affected families could not be issued to the petitioner on account of her failure to supply copy of the FIR and that in the absence of the verification of the cause of death and necessary documents, the benefits could not be made available. She also refers to the status report filed by way of an affidavit of Sandeep Kumar, IAS, Deputy Commissioner, Tarn Taran, District Tarn Taran on behalf of respondents No. 1, 2, 3 and 5 and contends that the petitioner had not got lodged any FIR regarding her husband’s death and that respondent No.5-Sub Divisional Magistrate had received a secret information that Dharampal-husband of the petitioner was not killed by the terrorist but died due to a domestic dispute and that in the absence of any FIR to corroborate the statement of the petitioner, the benefits cannot be released to her. She further contends that the report of Nambardar Balbir Singh of village Mallian, Block and District Tarn Taran as well as report of Revenue Patwari of the area had also been obtained. The same was thereafter sent to the Sub Divisional Magistrate, Tarn Taran as per which death of Dharampal by terrorist as claimed was disputed.

7. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.



CWP-11087-2021

-4-

8. The questions which arises for consideration of this Court is as to whether the claim for grant of financial assistance/ex-gratia amount to the petitioner could be denied for her failure to produce the FIR pertaining to the incident and more so when there is a conflicting report about the cause of death by the office of the Senior Superintendent of Police and in an enquiry conducted by the Revenue Department, at its own level, by recording the statement of the Nambardar and seeking a report from the Patwari.

9. In this regard, it would be essential to make a reference to the initial application submitted by the petitioner on a which a report was sought for by the Sub Divisional Magistrate from the Senior Superintendent of Police.

10. An enquiry was conducted by ASI Manjit Singh whereupon, a report was submitted by the SHO Police Station City Tarn Taran corroborating the version as put forth by the petitioner. The operative part of the said report dated 27.02.2019 submitted by the SHO, Police Station City Tarn Taran is extracted as under:-

Sub: Regarding Clarification / Verification of Death of deceased Dharampal s/o Heera Lal, caste Khatri, resident of village Malliyan, took place from the hands of terrorist.

Sir,

It is requested that the person mentioned in the subject namely Dharampal s/o Heera Lal Caste Khatri, resident of village Malliya was died in the year 1987. Investigation of the same has been conducted by ASI Manjit Singh, Incharged, PP Bus Stand. Upon the investigation [secret and open] conducted by ASI, it has



been revealed that Dharampal s/o Heera Lal Caste Khatri, resident of village Malliya was running Karyana shop in village Malliyan. On dated 4.6.1987 he had been gone at Tarn Taran to purchase shop's material, where at Grain market/Dana Mandi some unknown terrorist by stopping him, by giving injuries on his head had been murdered him. His family i.e. wife Ramesh Rani by accompany children had been shifted at village Dhariwal, Tehsil and District Gurdaspur and at this time she is residing at village Dhariwal, Tehsil and District Gurdaspur and she wanted to take financial assistance from government due to killing of her husband from the hands of terrorist. None of her family member is doing any government job. If Government is giving any financial assistance to her, then it is recommended.

Report is submitted.

*Sd/- Amandeep Singh-SI,
SHO, Police Station City Tarn Taran*

11. The statement of the petitioner was also recorded alongwith statements of Rajesh Kumar; Virsa Singh as well as Muktiar Singh. Further, a report bearing No. 286 dated 11.03.2019 had also been submitted by the field staff and as verified by the Tehsildar, Tarn Taran, that Dharampal son of Heera Lal Caste Khatri, had been murdered by the terrorists. The details of the LRs had been given by the field staff as approved and verified by the Tehsildar, Tarn Taran in which the name of the petitioner was also mentioned.

12. Notwithstanding the aforesaid reports submitted by the Tehsildar in the Revenue Department as well as the Police on investigation



of the cause, the claim was declined for her failure to produce the copy of FIR pertaining to the incident resulting in death of Dharampal-husband of the petitioner.

13. It would also be pertinent to make a reference to the status report dated 16.05.2022 filed by way of an affidavit of Barjinder Singh, PPS, Deputy Superintendent of Police, Sub Division Tarn Taran, District Tarn Taran which reads thus:-

“3. That it is respectfully submitted that on the receipt of order dated 21.10.2020 passed by the Sub Divisional Magistrate, Tarn Taran before the office of Senior Superintendent of Police, Tarn Taran and the same has been marked to the undersigned to verify the factum of the death of deceased Dharampal and the undersigned further marked to the SHO, Police Station Tarn Taran and the SHO, Police Station Tarn Taran has deputed to ASI Gajjan Singh, Incharge Police Post Bus Standand in pursuance of which the inquiry officer has approached the respectable persons of village Malian and also got recorded the statements of Anokh Singh (Ex-Member Panchayat), son of Chanan Singh, Pargat Singh (Member Panchayat) son of Santa Singh, Asha Rani and Virsa Singh and after conducting enquiry in the present matter, the inquiry officer has been found that the deceased namely Dharampal belongs to a Hindu Khatri caste family and he was running a grocery shop in his village Malian and on 04.06.1987 the deceased namely Dharampal went to Tarn Taran to purchase some shop material and on returning back from the city, some unknown terrorist murdered him and in this regard case FIR No.116 dated 04.06.1987 under section 302/34 of



IPC had also been registered at Police Station City Tarn Taran. It is further submitted that the deceased namely Dharampal has no affiliation with any party of terrorist and he belongs to Hindu Khatri caste and after conducting enquiry, the enquiry officer sent the enquiry report before the SHO, Police Station City Tarn Taran by recommending to provide financial assistance (ex gratia) from the Punjab Government to the petitioner and the findings of enquiry officer has duly been approved by the undersigned as well as the SHO, Police Station City Tarn Taran and the undersigned sent the enquiry report vide letter No.66-5E dated 15.01.2022 to the office of Sub Division Magistrate, Tarn Taran.

4. *That it is further submitted that as per the official record of police Station City Tarn Taran, the record pertaining to case FIR No.116 dated 04.06.1987 under section 302/34 of IPC has not been found because the old record of police station City Tarn Taran has been deteriorated.”*

14. It is evident from a perusal of the aforesaid that the Deputy Superintendent of Police has reiterated and verified the manner of death of Dharampal and he having being killed in a terrorist incident, in his affidavit. It is further averred that FIR No. 116 dated 04.06.1987 was registered in respect to the incident under Section 302/34 IPC at Police Station City Tarn Taran but the record could not be found because the same had deteriorated.

15. In the wake of the aforesaid report that has been furnished, the submission of the Deputy Commissioner to the fact that there was no FIR registered cannot be accepted. The Deputy Commissioner is not the

**CWP-11087-2021**

-8-

custodian of the police record and as such he has no authority to dispute the existence of the FIR.

16. Further, a reliance has been placed by the State on the report dated 24.07.2023 and on the statements of Nambardar as well as the Revenue Patwari of the area. Surprisingly, the Deputy Commissioner failed to take into consideration the earlier report submitted by the Tehsildar, on verification of the field report with respect to the cause of death of Dharampal as also the status of his LRs. No reasons have been assigned as to why the aforesaid report pertaining to death of Dharampal in the terrorist incident has been disregarded or ignored. I find that the respondent-State has taken a new stand merely to defeat the claim filed by the petitioner despite knowing fully well that she has no means to obtain a copy of the FIR when the record already stands destroyed.

17. It is a case where a widow has been denied the benefits under the Welfare Scheme notified by the State on the failure of the petitioner to supply a document which already stands destroyed as per the report and affidavit furnished by the office of Deputy Superintendent of Police, Tarn Taran. The statement of custodian of the said record pertaining to the non-availability could not be read to prejudice of the petitioner especially when she has already produced all the other relevant material and the reports that could have been submitted after verification of the complaint. The Police as well as the Revenue authorities had at an earlier instance verified the version of the petitioner and had duly reported that death of Dharampal took place in an incident of a terrorist attack. There was no basis or occasion for the

Deputy Commissioner to call for a separate report on 24.07.2023 and



CWP-11087-2021

-9-

disregard the entire overwhelming evidence available on record, including the investigations conducted and report submitted by the Police agencies.

18. Under the given peculiar circumstances of the case, the State cannot be permitted to take benefits of its own conflicting stand and to deprive the accrued benefit to the petitioner. This Court thus deems it appropriate and in fitness of things and to balance the equities in the present case to extend the benefit and to allow the present writ petition. The respondent-State is hence directed to release the admissible benefits under the “Subsistence allowance to widows of riots/terrorist violence Rules, 1992 as amended from time to time.

19. Let the exercise of determination of the admissible dues to the petitioner be carried out by the respondents within a period of three months of the receipt of a certified copy of this order and the admissible benefits be released within a period of one month thereafter. In the event of the respondents, failing to release the said benefits, the respondents shall be liable to release the above said benefits alongwith interest @ 6% per annum from the date of filing of the writ petition till its actual disbursement. The State would be at liberty to recover the additional financial liability of interest from the derelicting officer in accordance with law.

20. Petition is accordingly allowed.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 23, 2024
Vishal Sharma

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