

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-29630-2017 (O&M)
Date of decision: 29.02.2024

PRITAM KAURPetitioner
VERSUS

UNION OF INDIA AND OTHERSRespondents

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

Present: - Ms. Jigyasa Tanwar, Advocate
for the petitioner.

Mr. Lalit Attri, Central Govt. Counsel
for respondents No.1 to 3-Union of India.

Mr. Saurav Verma, Addl. A.G. Punjab with
Mr. Aditya Sharda, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking directions to the respondents to grant the central portion of Freedom Fighter Pension, under the Swatantrata Sainik Samman Pension Scheme, to the petitioner being the widow of Freedom Fighter late Nachhattar Singh alongwith arrears from the date of her husband's entitlement for receipt of the portion of pension from Freedom Fighter Pension Scheme from Central Govt.

2. Learned counsel appearing on behalf of the petitioner contends that Nachhattar Singh, late husband of the petitioner had

worked as a Sepoy under the regimental number 30802 in erstwhile 6/13 Frontier Force Rifles (FFR) after undergoing Military Basic Training at FFR Centre in Habbotabad (Near Panja Sahib now in Pakistan) and thereafter had served for the nation at Basra, Barood, Baghdad, Dumex and had also fought under the orders of the then Government of India. The husband of the petitioner thereafter served the Indian National Army under regimental number 3113 from 08.06.1942 to 16.05.1946 apart from rendering Boy's Service from 29.04.1942 to 07.06.1942. He was thereafter re-employed after the country gaining independence, as a Sepoy under Regimental Number 8804558 from 09.11.1949 to 24.11.1956.

3. Nachhattar Singh eventually passed away on 03.08.2015 whereafter the family plunged in financial hardships. Certain documents related to the participation of Nachhattar Singh in the freedom movement were recovered whereupon an application was submitted by the petitioner for disbursal of the freedom fighter pension. The Government of Punjab acknowledged the status of Nachhattar Singh as a freedom fighter and has given its share of the freedom fighter pension, however, the grievance which now survives and is being claimed for in the present petition is in relation to grant of the central portion of the pension scheme under the Swatantrata Sainik Samman Pension Scheme of 1973.

4. Counsel for the petitioner contends that the respondent-Government of Punjab had chosen not to forward the claim of the petitioner for grant of central portion of the pension allowance to the

Government of India and the same compelled the petitioner to approach this Court.

5. A reply by way of affidavit of Jasdeep Singh Aulakh, Deputy Secretary to the Government of Punjab, Department of General Administration (Freedom Fighter Branch) had been filed wherein it is acknowledged that Nachhattar Singh was getting State share in the freedom fighter pension from the Government of Punjab till his death i.e. 03.08.2015 and that the petitioner is also in receipt of the pension in terms of the State policy decision. It is averred in Para 4 of the above said reply that an application for release of the Central Govt. portion of the freedom fighter pension scheme is required to be submitted in the prescribed format alongwith the relevant supporting documents, proof of suffering undergone by him during the freedom struggle of India against the British Government. One set of documents is to be sent to the Chief Secretary of the concerned State while the second copy is to be sent to the Government of India in advance. It is further averred that whether the claim of Nachhattar Singh was ever recommended by the Government of Punjab to the Government of India at any stage, can only be ascertained from the record of Freedom Fighter Division, Ministry of Home Affairs, Government of India. However, if this Court deems it fit, then the petitioner may be directed to furnish all relevant proofs/records/documents pertaining to the sufferings/active participation of her husband during the freedom struggle. The same be duly verified and scrutinized on merits by the Government of Punjab and a recommendation may thereafter be made to the Government of India

for considering the claim of the petitioner for release of benefit under the Swatantrata Sainik Samman Pension Scheme.

6. A separate reply has also filed on behalf of respondents No.1 to 3 wherein a preliminary submission has been made to the effect that a mere grant of State pension does not hold a claimant entitled to the central portion and that the eligibility criteria and evidentiary requirement for grant of control portion of pension under the Swatantrata Sainik Samman Pension allowance are at variance. While imprisonment for a period of three months is sufficient for entitlement to pension under the State Freedom Fighter Pension Scheme, a minimum of 06 months imprisonment is required under the Swatantrata Sainik Samman Pension Scheme from the Government of India.

7. It is averred that the petitioner has been unable to produce the required documents as per the provisions the Swatantrata Sainik Samman Pension Yojna in support of her claim, hence, the case of the petitioner could not be processed.

8. Responding to the above, counsel for the petitioner contends that the petitioner is not in possession of the requisite documents and as per the information furnished by the Govt. of Punjab, verification of such a claim is required to be done by the Government of India itself from the record of Freedom Fighters Division, Ministry of Home Affairs, Government of India. Since the record is already in the possession of Union of India, they can always verify the claim.

9. Having heard the learned counsel appearing on behalf of the respective parties, I fail to understand as to why the respondent Union of India could not have verified the claim filed by the petitioner from the

record, which is undisputedly in its possession i.e. with the Freedom Fighter Division of the Ministry of Home Affairs, Govt. of India. Once a specific description had been given by the petitioner about the details of her husband including regiment number and the jails where he was lodged, the said verification could have been easily carried out to ascertain as to whether the petitioner is entitled to the benefit of pension under the scheme as notified by the Government of Punjab or not.

10. The object of the scheme was never to harass the claimants and to push them under the burden of securing documents which may or may not be in their possession owing to the troubled times during which the imprisonment may have been undergone and also in a case where a person being a member of INA would have been imprisoned abroad. The resources of an individual to secure such documents being little and the government itself being in possession of the entire record on the basis whereof such a claim could have been verified, it may not be appropriate to refuse processing the case any further, if all the documents are not supplied in advance. I find that it is a case of a typical bureaucratic mindset which passes on its responsibility entirely on a claimant and the official concerned has chosen not to turn to his archives to verify the said claim.

11. The present writ petition is accordingly disposed of at this juncture with a direction to the respondent No.2 i.e. Secretary, Department of Home Affairs, Freedom Fighter Division, NDCC-II Building, Jai Singh Road, New Delhi to verify the claim made by the petitioner in the present writ petition as regards the participation of Nachhattar Singh in the freedom movement of the country, as a member

of the Indian National Army, and about his having been imprisoned abroad for a period of six months or more. In the event, the above record is traceable and can be verified from the Freedom Fighter Division, Ministry of Home Affairs, Govt. of India, the requisite share of the Central Govt. in the pension be released in favour of the petitioner. Let the exercise of verification be undertaken by the respondent-Union of India within a period of six months of receipt of certified copy of this order.

12. In the event, the claim on verification is found to be well established, the due entitlement of the petitioner shall be released to her within a period of two months thereafter alongwith interest @ 6% per annum from the date of institution of the present writ petition till its final disbursement.

13. All the pending miscellaneous application(s), if any, are also disposed of.

FEBRUARY 29, 2024

Vishal Sharma

(VINOD S. BHARDWAJ)

JUDGE

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