



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: February 29, 2024

+ W.P.(C) 2755/2024 & CM APPL. 11188/2024

(3) MALWATI

..... Petitioner

Through: Mr. Sandiv Kalia, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Umesh Burnwal, Sr.
Panel Counsel with Ms. Parul Sagar,
Adv. and Mr. Amit Acharya, G.P.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 11188/2024

Allowed, subject to just exceptions.

Application disposed of.

W.P.(C) 2755/2024

1. This petition has been filed by Ms. Malwati W/o Late Jaipal Singh with the following prayers:-

“1. Allow the Petition Under Article 226 of The Constitution Of India for Issuance of A Writ of Mandamus, directing the Director General of Border Security Force, to release of service benefits, including pension that has accumulated which will enable her to lead a life of respect.

2. Also Direct, the Director General of Border Security Force (Respondents) to provide the answers requested by the Petitioner, in her representation made vide letter dated



23.04.2021 and annexed as Annexure P-11 which she is entitled.

3. Respondents may be directed to provide the litigation costs and the compensation for mental trauma caused during the nearing death of Late (Shri) Jaipal Singh and post his demise as well to the Petitioner.

4. This Hon'ble High Court of Judicature at New Delhi may pass any order or direction as it may deem just and proper under the facts and circumstances of the matter."

2. The petitioner is the wife of late Jaipal Singh. Late Jaipal Singh initially filed a writ petition being W.P.(C) 1107/1997. The writ petition bearing W.P.(C) 1107/1997 was dismissed in default on April 28, 2011. It appears, the petition was restored to its original number. In any case when the petition was listed on May 23, 2017, the same was dismissed as withdrawn.

3. Thereafter, late Jaipal Singh filed W.P.(C) 6738/2018 and the same was decided on July 03, 2018 with the following order:-

"1. The petitioner seeks directions to the respondent/BSF to release the balance of his salaries and other benefits alongwith his retiral dues.

2. A perusal of the paperbook reveals that much before filing the present petition, the petitioner had in the year 1997 filed a writ petition in this Court (W.P.(C)No.1107/1997), which was based on the same facts, wherein he had challenged his order of dismissal dated 06.07.1991 and sought reinstatement.

3. Pertinently, the aforesaid writ petition was unconditionally withdrawn by the petitioner on 23.05.2017.

4. That being the position, the petitioner is precluded from filing a fresh petition on the same cause of action. Accordingly, the present petition is dismissed as not maintainable alongwith the pending application."

4. Today, this petition filed by the wife of late Jaipal Singh with



the prayers mentioned above, which includes the release of service benefits including pension that has been alleged to have been accumulated in his favour cannot be granted for the simple reason that the dismissal of late Jaipal Singh has attained finality with the withdrawal of W.P.(C) 1107/1997.

5. Even the petition filed thereafter was also dismissed as not maintainable. So the prayers sought by the wife of late Jaipal Singh is primarily based on same cause of action inasmuch as she is seeking release of service benefits including pension based on the service put in by late Jaipal Singh, who was dismissed from service.

6. The writ petition is accordingly dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

FEBRUARY 29, 2024/ds