



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-18671-2020
Date of decision: 28.07.2025**

SMT. KAMLESH

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

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

Present: - Mr. Rabinder Singh, Advocate
for the petitioner.

Mr. Shivoy Dhir, Advocate for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

Seeking setting aside of the office note dated 13.03.2019 issued by respondent No.4- Commandant, 12th Battalion CISF, Anantpura, Behror, District Alwar, Rajasthan, declining grant of family pension under the CCS (Extraordinary Pension) Amendment Rules, 2011 and praying direction to the respondent-authorities to revise rate of family pension to 60% of last basic pay drawn by deceased husband of the petitioner, the instant writ petition has been filed.

2. Learned Counsel appearing on behalf of the petitioner contends that late Karambir Singh was a combatant member of CISF since 27.08.2007



as a Constable (Driver) and was promoted as Head Constable (Driver) w.e.f. November 2013. Learned Counsel contends that on 26.10.2017, the petitioner's husband was waiting at the Bus Stand Jakhrana to pick up his children who were to come back from School, at around 2:30 PM, when he was hit hard by the high-speed rashly driven vehicle bearing Registration No. HR-26AV-5479 (Honda Make), coming from the Behror side and he passed away on account of the injuries sustained on collision. Subsequently, FIR No. 0786 dated 26.10.2017 was got registered at Police Station Behror, District Alwar (Rajasthan).

3. He contends the Ministry of Personnel, Public Grievances and Pensions (Department of Pensions & Pensioners' Welfare) had categorized cases under five different categories for determining compensation payable for death or disability vide O.M. No. 45/22/97-P&PW(C) dated 03.02.2000. Category 'C' deals with death or disability on account of accidents in the performance of duties. He contends that under such an eventuality, the extraordinary family pension payable to such widows was determined as 60% of the basic pay and subject to a minimum of Rs. 7000/-, in cases where the deceased Government Servant is holding a pensionable post. He contends that in view of the above, the petitioner is entitled to re-determination of the quantum of extraordinary family pension to at 60% of the last basic pay. He contends that as per Section 15(1) of the CISF Act, 1968, all members of the force, for the purposes of the Act, are considered to be always on duty and at any time, are liable to be employed at any place within or outside India. No member of the force can engage himself in any employment or office other than his duties under the Act, except as provided



in Section 14; hence, he should be deemed to be on duty at the time of his accident resulting in his death.

4. It is contended by the Counsel for the petitioner that her husband was on active duty as on the date of the accident, hence, she is entitled to the benefits under the aforesaid office memorandum.

5. It is argued by the Counsel that even though the case set up by the respondents is to the effect that the late husband of the petitioner was on leave as on the date of the accident, however, the stand of the respondents is falsified from the written statement that was initially filed. In the written statement, it was stated that the deceased Karambir Singh was on leave from 16.10.2017 to 26.10.2017, whereas in the additional affidavit filed, it was stated that he was sanctioned six days' casual leave w.e.f. 21.10.2017 (Saturday) to 26.10.2017 (Thursday) with permission to take a weekly off on 22.10.2017 (Sunday). Hence, there is a concealment of record by the respondents.

6. He refers to an averment made by him in the replication that the 06 days leave duration was from 16.10.2017 to 24.10.2017 and that the deceased had in fact joined on 25.10.2017 and was placed in the General shift for duty. Thus, he was not on leave on the date of the incident and hence died while on duty. The petitioner would be thereafter entitled to the benefit of extraordinary pension.

7. Counsel for the respondent, on the other hand, contends that the accident in question took place on 26.10.2017 while the deceased was on leave and waiting at Bus Stand Jakhrana to pick up his children coming back



from school. He submits that as per the instructions relied upon by the Counsel for the petitioner, Category 'C' is applicable where death and disability occur 'due to an accident in the performance of duties or where the accident has occurred while travelling on duty in Government vehicles or public transport'. Thus, the accident in question should have happened in the course of 'performance of active duty'. He submits that as the petitioner was on leave as on the said date, hence, the benefit of the said clause for fixation of the extraordinary pension cannot be availed. He submits that at the first instance, the petitioner did not make any disclosure about the date of the deceased having actually joined active duty. It was only when the specific details were disclosed by the respondents that the petitioner changed her stand to argue that the deceased had joined on 25.10.2017 and thus was on active duty. He contends that the High Court directed the respondents to file an affidavit specifying as to whether the deceased husband of the petitioner had joined duties on 25.10.2017, after availing 6 days' casual leave or not. In response thereto, additional affidavit of Mahendra Kumar Verma, Senior Commandant, CISF dated 04.07.2022 has been filed. The relevant extract thereof reads thus:-

"3. That in compliance of order dated 31-03-2022, it is submitted that Late Karambir Singh, Head Constable/Driver (CISF No. 073310035) was sanctioned 05 days causal leave w.e.f 21-10-2017 (Saturday) to 26-10-2017 (Thursday) with permission to avail weekly off on 22-10-2017 (Sunday) to 26-10-2017 (Thursday) with permission to avail weekly off on 22-10-2017 (Sunday), Gazatted holiday on 19-10-2017



(Thursday), compensatory leave on 16-10-2017 (Monday) and 17-10-2017 (Tuesday) and Restricted holiday on 18-10-2017 (Wednesday) & 20-10-2017 (Friday) as per leave certificate.”

8. It has been specifically averred in the said affidavit that 05 days causal leave w.e.f. 21.10.2017 (Saturday) to 26.10.2017 (Thursday) with permission to avail weekly off on 22.10.2017 (Sunday) to 26.10.2017 (Thursday), Gazetted holiday on 19.10.2017, compensatory leave on 16.10.2017 (Monday) and 17.10.2017 (Tuesday) and restricted holiday on 18.10.2017 (Wednesday) and 20.10.2017 (Friday) as per the leave certificate clearly support the earlier submission of petitioner being on leave from 16.10.2017 to 26.10.2017. The complete details of the husband of the petitioner having availed different kinds of leave have been revealed.

9. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended available on record.

10. The crucial date for determining as to whether the deceased husband of the petitioner is entitled to the benefits, as asked for under the amendment notified on 15.02.2011, is '26.10.2017'. The respondents have specifically detailed the period of leave of the deceased husband of the petitioner and prima- facie supports that as on the date of incident, i.e. 26.10.2017, the deceased Karambir Singh was on leave.

11. The contention of the petitioner that the record has not been shown to her and hence, an inference ought to be drawn against the respondents cannot be accepted at this juncture. The said contention, at best,



would give rise to disputed questions of fact, which are not required to be gone into by a writ Court in exercise of writ jurisdiction under Article 226 of the Constitution of India.

12. This Court does not find any compelling reasons to disbelieve the affidavit that has been filed by the respondents/officials, on the asking of this Court, as there is no allegation of ulterior motive or malice attributed to any person. The explanation for the total period of absence from 16.10.2017 to 26.10.2017 has been given, which shows that the additional affidavit is not contradictory; rather, the same is only clarificatory.

13. The contention of the petitioner that the benefit of extraordinary pension would inure by virtue of Section 15 of the CISF Act on account of the petitioner being in deemed service; however, the Section relied upon by the petitioner is not applicable when a person is not on active duty. The financial benefits are extended only under certain exceptional circumstances and therefore, the pre-requisites prescribed therein are required to be fulfilled before a person claims such benefits. Counsel for the petitioner has failed to refer to any cogent evidence or documentary material in the form of an evidence on the basis whereof the contentions advanced by him could be accepted and the submission of the respondents be disbelieved. The specific submission by way of an affidavit cannot be ousted only on account of an oral assertion made by the petitioner. There being nothing on record to show that the deceased husband was on 'active duty' as on the date when the accident in question occurred and nothing on record, even to show that any effort was actually made by the petitioner to gather the evidence to substantiate her case, it appears that the aforesaid aspect can only be



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determined by leading evidence. Consequently, the instant writ petition is **dismissed** and liberty is granted to the petitioner to take recourse to alternative remedies for the above claim.

(VINOD S. BHARDWAJ)
JUDGE

JULY 28, 2025
Vishal Sharma

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