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

\+ W.P.(C) 3548/2025, CM APPL. 16585/2025, CM APPL. 16586/2025 & CM APPL. 16587/2025

LAKSMI KUMARI AND ORS .....Petitioners
Through: Ms. Nitika Duhan, Adv.

versus

UNION OF INDIA AND ANR .....Respondents
Through: Mr. Farman Ali, SPC with Ms. Usha Jamnal, Adv. along with Mr. Devender Singh, Jag Officer, ITBP for UOI.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
% **21.04.2025**

C. HARI SHANKAR, J.

1. Vijay Kumar, the husband of Laksmi Kumari, Petitioner 1 in the present writ petition, was employed as a Constable in Indo-Tibetan Border Police[1]. He was recruited in the ITBP on 3 July 1992. He served as part of the "kitchen service" in the ITBP. Vijay Kumar expired on 8 May 2024. He is admittedly survived by the petitioners who are his wife Laksmi Kumari, his daughters Seema Kumari and Sheela Kumari and his son Akshay Kumar.

2. Vijay Kumar had one more son, Sunil Kumar, who is

[1] "ITBP" hereinafter

admittedly missing since 2001. The petitioners assert that they are not aware of Sunil Kumar's whereabouts and cannot even confirm whether he is alive or dead.

3. Consequent on the death of Vijay Kumar on 8 May 2024, the petitioners became entitled to release of gratuity and family pension in terms of Central Civil Services (Pension) Rules, 2021. However, release of the said retiral benefits was held up by the Department of Pension & Pensioners' Welfare[2] *vide* letter dated 9 August 2024, which required the petitioners to provide various documents including the "Non-Traceable Certificate", issued by the Delhi Police.

4. As per the assertions in the petition, the Petitioner 1 is the third wife of Vijay Kumar and was unaware of the fact that he had a son Sunil Kumar, who has been missing since 2001. She claims to have got to know of the said fact only when she approached the ITBP for release of the retiral benefits of Vijay Kumar. She promptly lodged a complaint with the police station in that regard.

5. The petitioners, therefore, have challenged the aforesaid letter dated 9 August 2024 issued by the DOPPW to the extent it requires them to produce an FIR and a Non-Traceable Certificate regarding Sunil Kumar, as a condition for being released the retiral benefits of Vijay Kumar.

6. We have been spared the necessity of entering into the

[2] "DOPPW" hereinafter

controversy on merits, as the ITBP has issued an order dated 4 April 2025, which reads thus:

"No.31014/35/Estt-02/CT/K.S) Vijay Kumar, Death Cors File/2024-1675
Directorate General, ITBP
MHA/Govt. of India
CGO Complex, Block-2
Lodhi Road, New Delhi-110003

ORDER

Regimental No. 928010132, Constable (Kitchen Service) Late Vijay Kumar, expired on 08.05.2024 while posted at the Directorate General, ITBP. The amounts due in the form of DCRG, CGEGIS, and Insurance are to be paid to the deceased's family. However, the payment is being withheld due to the non-availability of the First Information Report (FIR) and the Non-Traceable Certificate concerning the disappearance of the late employee's son, Shri Sunil Kumar, since the year 2001. As a result, the deceased's wife, Smt. Laksmi Kumari, along with other family members, has filed a complaint. A petition (WP (C) No..../2025) titled Laksmi Kumari & Ors vs. UOI and Ors has been submitted before the Hon'ble High Court of Delhi at New Delhi for the release of the pensionary benefits. The Government Advocate appointed for the reference case has requested, via email dated 28.03.2025, that the dues of the deceased employee be paid so that the Hon'ble Court may be informed on the next date of hearing, scheduled for 07.04.2025.

Therefore, approval is hereby granted to pay the proportionate amount of DCRG, CGEGIS, and Insurance of the deceased employee to the following family members. pending the receipt of the First Information Report and Non-Traceable Certificate for Shri Sunil Kumar regarding his disappearance. The contribution of the missing son will be withheld in proportionate amounts: -

S.No.	**Name**	**Date of Birth**	**Relation with deceased**
01.	Smt. Laksmi Kumari	14.01.1985	Wife
02.	Smt. Seema	04.11.1989	Married daughter from 1st wife
03.	Sh. Akshay Kumar	31.01.1996	Unmarried Son from 2nd Wife
04.	Smt. Sheela Kumari	15.09.2001	Unmarried daughter from 2nd

			wife

Dy. Inspector General (Adm)
Dte Gen, ITBP"

7. As such, the remedy sought by the petitioners in the present writ petition stands granted by the respondents, as they have agreed to provide the retiral benefits due to the petitioners, without insisting on the Non-Traceable Certificate qua Sunil Kumar. However, the affidavit whereunder the said letter has sought to be placed on record states, in para 6, that the amount of retiral benefits due to Sunil Kumar would be withheld and would be disbursed only after a Non-Traceable Certificate in respect of Sunil Kumar is issued by the competent authority.

8. Ms. Nitika, learned Counsel who appears for the petitioners acknowledges that the petitioners' grievance stands assuaged by the aforesaid communication dated 4 April 2025 issued by the ITBP. She, however, prays that a direction may be issued to the Delhi Police to take a decision on the complaint dated 22 July 2024 filed by the Petitioner 1 in the Police Station and take appropriate steps in accordance with law.

9. While we do expect the Delhi Police to act on the basis of the said complaint, the legal remedies in that regard, if any, in case the Police fail to do so, would lie elsewhere.

10. We, however, direct that the amount of Vijay Kumar's retiral benefits, as would be payable to Sunil Kumar, be deposited by the respondents with the Registry of this Court and, as and when it is deposited, be retained by the Registry in an interest bearing fixed deposit, subject to further orders to be passed, if any.

11. Reserving liberty with the petitioners to avail such remedies in case the occasion so arises, the main grievance in the present writ petition, which is with respect to non-release of the retiral benefits of Vijay Kumar to the petitioners, stands redressed. No grievance survives as would require adjudication by this Court.

12. The petition is, accordingly, disposed of.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 21, 2025
ssc

Click here to check corrigendum, if any