



2025:DHC:10929-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 03.12.2025*+ **W.P.(C) 13145/2018 & CM APPL. 34142/2024**

BHATERI DEVI

.....Petitioner

Through: Ms. Saahila Lamba and Ms. Nidhi
Sharma, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Neeraj (SPC) with Mr.
Soumyadip Chakraborty, Advocates.**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE GIRISH KATHPALIA****DINESH MEHTA, J. (ORAL)**

1. The instant writ petition is directed against letter/communication giving information pursuant to an application filed under Right to Information Act, 2005 (*hereinafter referred to as "RTI Act"*) dated 03.10.2018, that she is not entitled for dual family pension.
2. Learned counsel for the petitioner, invited Court's attention towards the Office Memorandums dated 16.01.2013 and 17.01.2013 to submit that as per these Government Orders, the dependants of petitioner's husband, who had served in Army from 02.09.1940 to 16.08.1956 are entitled for dual family pension and the reason given by the respondent that when the petitioner's husband retired from Railway Protection Force (*hereinafter referred to as "RPF"*) on 30.09.1980, the Government Office Memorandum dated 17.01.2013 was not in force, hence, he is not entitled to pension, is absolutely



unsustainable.

3. Taking the Court through the backdrop fact, learned counsel submitted that petitioner's husband late Hukam Singh was appointed in Army on 02.09.1940 and retired in 1956, whereafter he joined as a Constable in the Railway Protection Force (*hereinafter referred to as 'RPF'*) and retired on 30.09.1980. He submitted that when the petitioner's husband retired from RPF, entire GPF amount was returned to him and after his demise on 28.10.2000.

4. When the office memorandum dated 17.01.2013 was issued, the petitioner, being erstwhile Army personnel's widow filed an application under Right to Information Act 2005, regarding her entitlement to get dual family pension so as to get clarity.

5. He submitted that though the office memorandums dated 16.01.2013 and 17.01.2013 (Annexure- P1 & P2), are clear in this regard, the respondents have informed the petitioner by their letter dated 03.10.2018 pursuant to aforesaid application that she is not entitled to get dual pension.

6. Learned counsel highlighted that communication dated 03.10.2018 (Hindi version) clearly shows that the respondents have admitted the fact that when the petitioner's husband retired from the services of RPF, the entire amount lying in the credit of his Public Provident Fund had been paid/refunded. And that since on the date of late Hukam Singh's retirement, i.e. 30.09.1980, the order granting dual pension was not prevailing, she cannot get dual family pension.

7. Learned counsel argued that the Office Memorandum dated 17.01.2013 (Annexure P-2) is abundantly clear and the same unequivocally provides for dual family pension to the next of kin (NOK) of a pensioner, who



gets second employment in the Government after being discharged from Military Services.

8. Learned counsel argued that communication sent by the respondent-Joint Secretary, Ministry of Finance, is clearly contrary to the Office Memorandum dated 17.01.2013, and the same is liable to be quashed.

9. Per contra, learned counsel for the respondents, invited the Court's attention towards the reply, which the respondents have filed, and highlighted that as the respondents do not have any record relating to the services rendered by the petitioner's husband, family pension, as claimed by the petitioner, cannot be awarded.

10. Ms. Lamba, learned counsel for the petitioner in rejoinder, while maintaining that the reason given in the reply/counter affidavit are not in conformity with the communication impugned dated 03.10.2018, argued that the respondent's plea, is *per se* unsustainable inasmuch as they have tried to deprive the petitioner of her right of getting family pension vindictively. She submitted that the respondents cannot supply a reason, which do not form part of the communication, that was sent to her.

11. She further submitted that, the petitioner has produced various documents along with her rejoinder, which include copy of Public Provident Fund Account (Annexure-A), copy of Certificate of Service (Annexure-B), copy of Extracts of Register (Annexure-C) and a Group Photograph of RAKSHAK MOHARRIR on 26.11.63 JR RPF T/c Lucknow which was taken, along with other colleagues, wherein the name of petitioner's husband (Hukam Singh) is clearly mentioned.

12. She submitted that even a document has been placed by the petitioner on record from the register entry at Sr. no. 116 thereof (Annexure-C) shows



that the record relating to petitioner's husband seems to have been weeded out. She submitted that if the respondents have weeded out the record, including Service Record of the petitioner's husband, she cannot be made to suffer and her legitimate right of getting family pension from the respondents cannot be denied.

13. Heard learned counsel for the parties and perused the record.

14. So far as the reason for denying the petitioner's right for claiming family pension from RPF vide letter of communication dated 03.10.2018 is concerned, the same is clearly in the teeth of the office memorandums dated 16.01.2013 and 17.01.2013. Because the office memorandum dated 17.01.2013, particularly para no. 2 & 3 thereof, clearly postulates that the dependents or next of kin (NOK) of the government servant, who has served the Government or Other Corporation after having retired from Military Service with pension, are entitled for dual pension.

15. If the interpretation is given by the respondents is upheld, it will give rise to two class, without any intelligible criteria- the personnel who have retired prior to 12.01.2013 and those who retired after 12.01.2013. The dependents of the personnel retiring from other services after 17.01.2013 would get due family pension while the dependants of those who retired on or before 17.01.2013 will be deprived of such benefits. When the office memorandum does not create any distinction, the respondents cannot do so.

16. The reason given by the respondent that when the petitioner retired on 30.09.1980, the Government Memorandum was not in vogue is therefore, completely arbitrary and contrary to the Memorandum dated 16.01.2013 and 17.01.2013. The same is also violative of petitioner's Fundamental Rights guaranteed under Article 14 of the Constitution of India.



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17. We are surprised to see that when the Joint Secretary had directly or indirectly accepted that when the petitioner had retired from RPF, his entire amount in the Public Provident Fund had been returned, while informing the petitioner that she cannot get dual family pension, how could they take an altogether different plea, that they do not have any record relating to services rendered by the petitioner's husband in RPF.

18. According to us, such plea taken by the respondents cannot be accepted in light of judgment of Hon'ble the Supreme Court, reported in case of **Mohinder Singh Gill vs. Chief Election Commissioner (1978) 1 SCC 405**, wherein Hon'ble the Supreme Court has ruled that the reasons cannot be supplied by way of subsequent affidavit or reply.

19. On perusal of the document which have been filed by the petitioner with the rejoinder, we are of the view that these documents are enough to show that the petitioner's husband had served in the RPF, subject, of course, to the documents being genuine and the respondents are trying to deprive the petitioner of her legitimate rights on one ground or the other.

20. The communication dated 03.10.2018 being illegal is hereby quashed.

21. The respondents stand/decision to deny the petitioner's dual family pension is also declared illegal & arbitrary.

22. The respondent-RPF is directed to commence payment of applicable family pension (dual pension) to the petitioner for the services, rendered by her husband in the RPF as early as possible, however not later than 01.03.2026.

23. Petitioner shall also be entitled for arrears of family pension from 01.01.2019-three months from the date of issuance of the impugned communication. The arrears be paid on or before 30.06.2026.



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24. Petition stands allowed as indicated above, however, without any cost.

DINESH MEHTA, J.

GIRISH KATHPALIA, J.

DECEMBER 3, 2025/nk