



2026:DHC:3814



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7469/2022**

Date of decision: **21.04.2026****IN THE MATTER OF:****SANTOSH GULIA**

.....Petitioner

Through: Mr. Amolak, Mr. Gurmukh Dass
Kohli, Advocates.

versus

UNION OF INDIA AND ANR.

.....Respondents

Through: Mr. Chiranjiv Kumar and Mr. Mukesh
Sachdeva Advocates for R-UOI.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The present petition is a modest but poignant reminder of an enduring constitutional promise. That those who sacrificed their liberties for the nation shall not be left without dignity in their twilight years, and neither shall those who bore their burden alongside them. The question that arises for consideration in the instant Writ Petition touches upon the laudable but at times restrictively interpreted Swatantrata Sainik Samman Pension Scheme, 1980 ("*the Scheme*"), and whether the Petitioner, the widowed daughter of a deceased freedom fighter stands excluded from its protective embrace on account of her marital status alone.

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2. The instant petition is for the following reliefs:-

“(i) to issue writ of mandamus or any other appropriate writ of such nature directing the respondents to include name of petitioner in the list of pensioners being widow daughter of freedom fighter under Swatantrata Senani Samman Scheme.

“(ii) To pass any further other order(s), direction(s), instruction(s) as this Hon’ble Court may deems fit and proper in the facts and circumstances of the case in favour of the petitioner and against the respondents in the interest of justice.”

3. The Scheme is not a traditional pension policy arising from any contractual employment relationship with the State; rather, it constitutes formal recognition by the State of the sacrifice and contribution of freedom fighters, as well as their dependents who shared the hardships of that struggle. Para 3 of the Scheme defines “**Eligible Dependants**” as:-

“For the purpose of grant of Samman Pension, family includes (if the freedom fighter is not alive) mother, father, widower/widow if he/she has not since remarried, unmarried daughters

No more than one eligible dependent can be granted pension and in the event of availability of more than one dependent the sequence of eligibility will be widow/widower, unmarried daughters, mother and father.”

4. The Petitioner is the widowed daughter of Late Sh. Lal Chand, a recognised freedom fighter who was in receipt of pension under the Scheme vide PPO No. MHAF9102678. The Petitioner’s husband predeceased her on 21.02.1993, following which she resided with her parents. Upon the demise of her father on 03.07.2004, the Petitioner’s mother continued to receive the pension as the widow of the freedom fighter. The Petitioner’s mother subsequently passed away on 18.02.2018, leaving the Petitioner as the surviving widowed daughter.

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5. The Petitioner stated that she remained unmarried after the death of her husband and was dependent on her parents. The sole reason to deny the benefit is that the Petitioner cannot be construed to be dependant of the deceased. The Petitioner claims to have made several representations to the Respondent authorities, supported by certificates issued by competent authorities. Despite such representations, no decision has been taken. Therefore, the Petitioner has filed the instant petition.

6. Learned counsel appearing on behalf of the Respondents draws the attention of the Court to the Clause 5.2.5 of the notification bearing No.45/03/2014 FF(P), Ministry of Home Affairs, FFR Division i.e. the Guidelines for disbursement of Central Samman Pensions to be followed by Authorized Public Sector Banks. The said Clause is extracted as under:-

“5.2.5 Widowed/ divorced daughter is not eligible for samman pension.”

7. This Court in the case of **Smt. Kohli Indira Kumari vs. The Union of India**¹ had an occasion to consider the import of para 5.2.5 of the revised policy guidelines. While placing reliance on the decision of the Division Bench of the Punjab & Haryana High Court in the case of **Khazani Devi vs. Union of India and Ors.**², this Court found that the benefit of pension to the widow daughter in view of para 5.2.5 of the Scheme should not be denied. Paragraph no.8 of the decision in the case of **Smt. Kohli Indira Kumari** is extracted as under:-

“8. Having heard the learned counsel for the petitioner, the only issue which arises for consideration is, whether in view of para 5.2.5 of the

¹ W.P.(C) 7343/2020; Judgment dated 10.08.2021

² LPA No.1721/2015 dated 29.07.2016



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*Pension Scheme, the petitioner a widowed daughter of a freedom fighter is not entitled to the benefit of the Pension Scheme as a dependent of the freedom fighter. This Court is of the view, the issue is no more res-integra in view of the conclusion of the Punjab & Haryana High Court in the case of **Khazani Devi** (supra), wherein the petitioner who was a divorcee and had also sought grant of the pension under the Pension Scheme through her late father and the same was denied to her as she was ineligible for grant of the same under the said Scheme. The Division Bench was of the view that the underlying object in the clause of the Scheme listing eligible dependents is that only one be granted the pension. Therefore, the authorities have to construe the admissibility of benefit from that angle. It is not the case, that the daughters are excluded altogether. An unmarried daughter finds mention in the list of eligible dependents. It would, thus, be a travesty to exclude a divorced daughter. There would be no rationality to the reason that the unmarried daughter can be included in the list of eligible dependents and a divorced daughter would stand excluded, particularly when she is the sole eligible dependent and thus, qualifies for the benefit, which is concededly made admissible only to one dependent. The Division Bench was of the opinion that a beneficial Scheme such as the one in hand should not be fettered or constructed by a rigorous interpretation which tends to deprive the claimants of the benefit to result in virtual frustration or negation of the laudable motive of the Scheme itself. The Division Bench also noticed that the Ministry of Defence has issued instructions dated December 14, 2012 which included a divorced daughter in the category of eligible dependents for grant of liberalized/special family pension beyond 25 years. The same was extracted as under:-*

“2. The above matter is considered by the Government and it has been decided in consultation with Department of P&PW that unmarried/widowed/divorced daughter shall also be eligible for grant of liberalised/special family pension beyond 25 years of age subject to fulfilment of other prescribed conditions as hitherto fore.”

The Division Bench was of the view that both the liberalized/special family pension and Swatantarta Sainik Samman Pension Scheme are intended to honour the valour of the uniformed people who laid down their lives or suffered for the cause of the country and thus, would not place any demeaning interpretation on the Scheme to deprive the unsung heroes of the country of benefits meant to ensure a life of dignity to their dependents. The Division Bench accepted the appeal and directed that the benefit of Swatantarta Sainik Samman Pension Scheme shall be admissible to the divorced daughter as well.”

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8. Ultimately, the Court in paragraph no.12 thereof, has passed the following directions:-

“12. I concur with the view taken by Punjab & Haryana High Court as well as Calcutta High Court, more particularly when the very same clause under which the benefit is sought to be denied by the respondents to the petitioner, was considered for granting the relief to widowed daughters. Accordingly, the present writ petition is allowed. The impugned order dated February 12, 2020 is set aside. The respondents shall consider the case of the petitioner for grant of dependent pension under the Pension Scheme to the petitioner, if she satisfies the other conditions as contemplated under the Scheme. This consideration shall be undertaken within eight weeks from today.”

9. In ***Sonali Hatua Giri vs. Union of India and Ors.***³ Clause 5.2.5 of the 2014 Guidelines was declared to be violative of Article 14 of the Constitution, stating that:-

“36. Since the aforesaid safeguard is already existing, the blanket exclusion of widowed/divorced daughters, including even those who do not have any personal income in lieu of maintenance or otherwise, is patently dehors Article 14 of the Constitution of India, which enshrines the guarantee of equality to all citizens. In the present case, the classification is worse than gender bias, since unmarried daughters have been included within the scheme but widowed/divorced daughters who stand on the same footing, having no independent source of income, have been excluded”

10. In view of the aforesaid, the legal position on the issue involved in the instant petition is no longer *res-integra*, and accordingly, the Respondents are hereby directed to consider the case of the Petitioner for grant of dependant pension under the Scheme, if she satisfies the other conditions as contemplated under the Scheme, including the condition of having no independent source of income. This consideration shall be undertaken and

³ 2021 SCC ONLINE CAL 1644.





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completed within a period of eight (8) weeks from the date of receipt of copy of the order passed today.

11. With the aforesaid observations, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

APRIL 21, 2026
Nc/NK

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