
(2012) 07 RAJ CK 0016

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11813 of 2011

Bhanwar Kanwar (Smt.)

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Citation : (2012) 4 RLW 3643 : (2013) 1 WLN 246

Hon'ble Judges : Gopal Mathur, J

Bench : Single Bench

Advocate : V.R. Choudhary, for the Appellant; V.K. Mathur and P.S. Bhati, for the Respondent

Judgement

Hon"ble Gopal Mathur, J.—The petitioner is mother of Late Shri Bhagwan Singh, who died on 25.10.1995 while serving the respondents as Sipahi/GD. Respondent Tej Kanwar, being widow of Late Shri Bhagat Singh, was employed with Central Reserve Police force as Assistant Sub-Inspector (M) on compassionate ground under an order dated 10.10.1999 and was posted at "GC", CRPF, Neemach (M.P.). On 29.8.2005 Smt. Tej Kanwar remarried with Shri Jai Dev Singh son of Shri Aidan Singh. Suffice to mention here that respondent Smt. Tej Kanwar in addition to compassionate employment was also receiving family pension that came to be stopped on her remarriage. The grievance of the petitioner is that she is an old lady of 67 years and is having no means to support herself. Respondent Smt. Tej Kanwar after her remarriage is also not taking her care and is not giving necessary support. A direction, thus, is claimed by the petitioner for grant of family pension to her or in alternative any other appropriate relief that this Court deem appropriate.

2. A reply to the writ petition has been filed on behalf of the respondents No. 1 to 3 stating therein that the family pension given to Smt. Tej Kanwar (respondent No. 4) was seized from the date of her remarriage, however, in view of the provisions of Rule 54 of the Central Civil Service (Pension) rules, 1972 (hereinafter referred to as to "the Rules of 1972"), the petitioner is not entitled

to receive the same. No reply to the writ petition has been filed on behalf of the respondent No. 4, however, on her behalf it is asserted by Dr. Pushpendra Singh Bhati, learned counsel, that the family pension can be given by the respondent government respondents and if i.e. allowed, her client is having no objection.

3. Heard counsel for the parties.

4. At the threshold learned counsel for the petitioner submits that in view of the provisions of the Rules of 1972 the petitioner is not entitled for family pension, therefore, some alternative adequate relief be given to her being mother of deceased government servant.

5. The Ministry of Personnel, Public Grievances and Pension, Government of India, under an office memorandum dated 9.10.1998 introduced an scheme for compassionate appointments with an object to grant such appointment to a dependent family member of a government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve his family from financial destitution and go get over the emergency. Clause 13 of the scheme provides that "a person appointed on compassionate grounds under the scheme should give an undertaking in writing (as in Annexure) that he/she will maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith".

6. An undertaking as per clause 13 was executed by the respondent No. 4 while availing appointment in compassion. In view of the undertaking given as per clause 13, she is required to maintain properly other family members who were dependents on Late Shri Bhagat Singh. On violation of the undertaking so given, it is open for the respondents to terminate her from services. However, in the instant matter on her termination from service the petitioner will not get anything as she is not eligible to be employed on compassionate grounds. She shall also not be entitled for getting family pension even on getting the respondent No. 4 terminated from service. In such circumstances, proper care and support of the petitioner is required to be ensured by adopting a procedure by continuing the respondent No. 4 in service.

7. The respondent No. 4, if would have been living with the petitioner or would have been taking necessary care of the petitioner, then she must have been spending a good part of her salary for the purpose. To meet the ends of justice I deem it appropriate to part of a portion of salary of the respondent No. 4, to be paid to the petitioner for her survival, support and care. In my considered opinion 50% of gross salary of the respondent No. 4 shall be an adequate part of money to meet all necessary needs of the petitioner.

8. Accordingly, this petition for writ is disposed of with a direction to the respondents No. 1 to 3 to deduct 50% amount of gross salary of the respondent

No. 4 and to pay the same to the petitioner from the month of August, 2012 onwards. Such payment is required to be made before every 10th day of every month. In addition to it the petitioner shall also be entitled for a lump sum amount of Rs. 50,000/- i.e. required to be paid to her by the respondent No. 4 on or before 31st of March, 2013. In the event of failure to make such payment on or before 31st of March, 2013 the respondents No. 2 and 3 shall be at liberty to deduct this lump sum compensation amount also from salary of the respondent No. 4 in next six months. However, in that event the petitioner shall also be entitled for interest @ 10% per annum upon the amount of compensation. The petitioner shall appear before the respondent No. 3 on or before 27th of July, 2012 to complete all necessary formalities required for making payment to her as per the directions given above.