
(2016) 07 P&H CK 0154

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 1721 of 2015

Khajani Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-07-2016

Acts Referred:

Citation : (2016) 4 LawHerald 3461 : (2016) 4 RCRCivil 158 : (2016) 4 SCT 190

Hon'ble Judges : Mahesh Grover and Shekher Dhawan, JJ.

Bench : Division Bench

Advocate : R.A. Sheoran, Advocate, for the Appellant; Vivek Singla, Advocate, Vivek Saini, Deputy Advocate General, Haryana, N.K. Mankotia, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mahesh Grover, J. This appeal is directed against the judgment of learned Single Judge dated 30.10.2015.

2. In existence is a Scheme known as "Swatantarta Sainik Samman Pension Scheme, 1980 (hereinafter referred to as "the Scheme"). Father of the petitioner, namely Norang, who was a freedom fighter and admitted to the benefit under the Scheme, died on 8.2.1994 leaving behind his wife, who died on 12.6.1995, survived by the appellant, who is his daughter, as the sole biological survivor, even though, Norang, during his life time, had adopted his brother's son, namely Prem, who had also expired. The appellant is a divorcee and thus, has prayed that in the given set of circumstances, she, being the sole surviving heir, was entitled to the benefit of pension being drawn under the Scheme by her late father and lastly by her widowed mother. The benefit has been denied to her on the ground of ineligibility as prescribed in the Scheme dated 15.8.1981. The relevant of which may be extracted herebelow:-

"2. WHO ARE ELIGIBLE DEPENDENTS:

For the purpose of grant of Samman pension, family include (if the freedom

fighter is not alive), mother, father, widower/widow if he/she has not since remarried, unmarried daughters.

Not 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."

3. The learned Single Judge, after noticing that since a divorcee is not included in the list of eligible dependents, even though an unmarried daughter does find mention, negated the claim of the appellant which is now the cause of grievance to her.

4. We have heard learned counsel for the parties and are unable to persuade us to conform to the interpretation placed by the learned Single Judge qua the appellant's ineligibility for the benefit of the pension under the Scheme.

5. 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. Even otherwise, we are 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. We also notice that the Ministry of Defence has issued instructions dated 14.12.2012 (on record as Annexure P8) which included a divorced daughter in the category of eligible dependents for grant of liberalized/special family pension beyond 25 years. We may extract the same herebelow:

"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 fulfillment of other prescribed conditions as hitherto fore."

6. 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. We would, thus, 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.

7. With the aforesaid observations, we accept the appeal and direct that the benefit of Swatantarta Sainik Samman Pension Scheme shall be admissible to the

divorced daughter as well. Consequently, letter (Annexure P5) and Show Cause notice (Annexure P7), by which the pension was stalled, stand quashed.