
(2002) 12 AHC CK 0086

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No.3826 (S/S) of 2002

Noorjahan

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 10-12-2002

Acts Referred:

Uttar Pradesh Police Asadharan Pension Niyamawali, 1975 — Rule 3

Citation : (2002) 12 AHC CK 0086

Hon'ble Judges : S.N.Srivastava, J

Final Decision : Allowed

Judgement

S.N. Srivastava, J.

1. This petition was heard on 10.12.2002 and after sifting arguments advanced across the bar and the materials on record, a short order was passed allowing the petition and stating that reasons shall follow. The reasons, which weighed with me to allow the petition, are as follows.

2. Petitioner, the widow of a Head constable who died on 3.5.1992 in a head on collusion between a truck and a Jeep, having spent all her persuasive wiles all these years at the end of various authorities in the police hierarchy has invoked the extraordinary jurisdiction of the court and sought the relief of a writ of mandamus by means of the present petition to command the respondents to sanction extraordinary pension to the family of the deceased under the provisions of U.R Police Asadharan Pension Niyamawali, 1975.

3. Facts draped in brevity are that Lal Mohammed, a Head constable in 47th Battalion P.A.C. Task Force Bareilly who had been deputed temporarily in the office of the Director General of Police at Lucknow happened to be at Bareilly on official duty on 2nd May 1992 and after drawing salary from Bareilly, while he was on way to Lucknow, the truck in which he was traveling, collided headon with another vehicle namely, Swaraj Mazda in the vicinity of village Richhani within the district of Sitapur. As a result of the accident, the husband of the

petitioner died instantaneously. The petitioner claims to have represented the matter ad nauseam to various authorities but all her efforts proved unavailing. However, it would appear that extraordinary pension was declined to the petitioner on the hypothesis that the husband of the petitioner was travelling by a truck and not from Rail or Bus and that in view of Rule 3 of the Niyamawali, 1961, family of the deceased was not entitled to pension. It has not been repudiated that he was on official errand.

4. Learned counsel for the petitioner drew attention of the Court to Rule 3 of the amended Niyamawali, 1975 the quintessence of which is that this amended rule would come into play in relation to a person who dies in the course of discharge of his duties. Learned Counsel further submits that the amended Niyamawali, 1975 uses expression "Ya Anya Kartabyon Ka Palan Karne Ke Dauran Mare Jaye Ya Mrityu Ho Jai" and this expression extends coverage to death by accident and by necessary implication, proceeds the submission, the death of the husband of the petitioner in the accident comes within the definition of extra risk. The learned counsel also placed credence upon a government Order dated 19th July 1998 and canvassed that Explanation to Rule 3 of the Niyamawali, 1975 furnishes sufficient safeguards and leaves no manner of doubt that the family of the deceased Lal Mohammed was entitled to Asadharan Pension. Learned Standing counsel, in opposition, made a feeble attempt to vindicate the order. However, his stiff opposition paled into acquiescence once his attention was drawn to amended Rule (3) of the Niyamawali 1975.

5. From the above conspectus, it is explicit beyond any vestige of doubt that petitioner's husband was on official duty and he was on way back to Lucknow from Bareilly, when the accident occurred. It thus brooks no dispute that the husband of the petitioner was on official duty when he succumbed to his injuries as a result of accident. It would further transpire that earlier applications made for sanction of extraordinary pension came to be rejected ostensibly in oblivion of Rule 3 of the Amended Niyamawali, 1975 and the Government order referred to above a bare perusal of which bespeaks in no Delphic terms that the family of the deceased Lal Mohammad was entitled to Asadharan Pension. In the above perspective, the authorities were wholly unjustified in declining the benefits to the family of the deceased on the hypothesis that the deceased though on official duty, was performing the journey by a truck. That apart, I would not forbear from observing here that the provisions of extraordinary pension were formulated with the avowed object of providing succour to the family of a deceased police official and the authorities should have placed equity before technicalities and proceeded in the matter hearing in mind the aforesaid objects underlying the rule.

6. As a result of foregoing discussion, I am of the view that the family of the deceased is entitled to the benefits flowing from the provisions of Asadharan Pension and in view of Rule 8 of the said rules, such benefits shall take effect from the date following the death of the police official and/or such other date as

the Governor may decide.

7. The petition therefore succeeds and is allowed and it is held that petitioner Smt. Noor Jahan is entitled to get pension including arrears of such pension from the date immediately following the death of the deceased husband. There would be no order as to costs.

(Petition allowed)