

(2001) 01 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14938 of 2000

Raj Bala

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 10-01-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 RCR(Civil) 796

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Mr. Sandeep Kotla, for the Appellant;

Judgement

V.K. Jhanji, J.—It was on 26.7.1999 when Operation Vijay came to successful culmination after final eviction of Pakistan Army from Indian Territory. Before that there was fierce struggle, stirring battles and many sacrifices, all of which ultimately led to victory that we celebrate even today. Husband of the petitioner, namely. Lance Nayak Bhim Singh who joined Indian Armed Forces in 1988 in the Unit of 193 VBSF Bn was one among those who laid their lives for the country to be victorious in Kargil. He died on 2.7.1999 at Gurmarg Post in Kargil Sector. Petitioner came to know of the demise of her husband on 4.7.1999 when the S.D.M. Fatehabad gave her this information. At the time of funeral of her husband, Home Minister of Haryana, Superintendent of Police, Deputy Commissioner of District Fatehabad and other respectable Senior Officers of the District were also present. They all paid tribute to the martyr. Chief Minister, Haryana also sent a condolence letter to the petitioner. On 13.8.1999, State level function was organized by the Maharshi Dayananad University, Rohtak for honouring the widows/dependents of the martyrs who laid their lives in Operation Vijay Kargil Sector. Petitioner being one of the widow of martyr, was honoured in the said function in which Chief Minister of Haryana was the Chief Guest while Governor of Haryana presided over the function. In a meeting of Haryana Vidhan Sabha held on 27.7.1999, a reference was made to the sacrifice

made by the husband of the petitioner.

2. Petitioner has filed this writ petition seeking a writ in the nature of Mandamus directing the State of Haryana to grant ex-gratia payment in terms of instructions issued by it. She has submitted that she has three minor children aged 7, 5 and 3 years and there is no other source of income to meet the household expenses except the pension. Petitioner has averred that except messages of condolence and lip sympathy to her and other members of bereaved family, she has not received any ex-gratia amount which was declared by the State Government of Haryana at the time of Operation Vijay." Despite notice to the State of Haryana, it has not cared to file any reply.

3. Vide Memo. No. 13/8/92-4D-III dated 25th July, 1999, Government of Haryana issued of the following instructions:-

"In continuation to this department Memo. No. 13/8/92-4D-III dated 2.7.99, the Haryana Government has decided to enhance the ex-gratia payment to widow of martyrs only from Rs. 5 lacs to Rs. 10 lacs w.e.f. 1.4.99.

In earlier cases where the payment of Rs. 5 lacs have been made the balance payment of Rs. 5 lacs shall also be released. Out of this amount of Rs. 10 lacs, Rs. 5 lacs will be paid to the widow of martyr and remaining Rs. 5 lacs to the parents. Out of this Rs. 10 lacs, Rs. 8 lacs will be paid from Haryana Chief Minister's War Heroes Relief Fund and remaining Rs. 2 lacs will be paid from Government Budget."

4. Under the aforementioned instructions, petitioner and parents of the deceased were entitled to receive ex-gratia payment of Rs. 5 lacs each but the State of Haryana, for reasons best known to it, has not released the same. It is really unfortunate that the petitioner received no response despite having written a letter to the Chief Minister, Haryana for release of ex-gratia payment which she was entitled under the instructions issued by the State of Haryana. If this is the manner in which the families of martyrs are to be treated, then in future, no mother or wife would send her son or husband to join the Indian Armed Forces. There being no justification on the part of the State of Haryana to withhold the payment of ex-gratia to the petitioner and parents of martyr Lance Nayak Bhim Singh, this writ petition deserves to be allowed with costs.

5. Consequently, this writ petition is allowed and respondent No. 1 i.e. State of Haryana is directed to release ex-gratia payment of Rs. 10 lacs i.e. 5 lacs to the petitioner and Rs. 5 lacs to the parents of the deceased within a period of one month from the date of furnishing a copy of this order by the petitioner. Thereafter, it shall carry interest at the rate of 12 per cent per annum till payment is made. Petitioner shall also be entitled to the costs of this petition which are assessed at Rs. 10,000/-. Costs shall be borne by respondent No. I. In case any amount of ex-gratia payment has been released to the petitioner or parents of the deceased during the pendency of this writ petition, the same shall be adjusted towards balance amount of ex- gratia payment to them.

6. Writ petition allowed.