
(2015) 10 DEL CK 0037
In the Delhi High Court
Case No : W.P.(C) No. 6351/2013

Rajesh Kumari

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 15-10-2015

Acts Referred:

Citation : (2015) 10 DEL CK 0037

Hon'ble Judges : S. Ravindra Bhat and Deepa Sharma, JJ.

Bench : Division Bench

Advocate : Mohan Kumar and S.M. Hooda, Advocates, for the Appellant; Rajesh Gogna, CGSC, Bhawana Bajaj, Advocate and B.K. Rout, Pairvi Officer, for the Respondent

Final Decision : Allowed

Judgement

S. Ravindra Bhat, J.—The petitioner claims directions that the respondent (hereinafter referred to as "CRPF") should recommend her case and ensure that she is paid extraordinary pension in view of the untimely death of her husband—on 17.04.2009. Petitioner's husband was Head Constable with the CRPF deployed on election duty in Jammu and Kashmir.

2. The essential facts are undisputed; the petitioner's husband late Ravinder Singh joined the CRPF on 14.05.1988 as a Constable. He was subsequently promoted as Head Constable. In that capacity, he was deployed as Section Commander at Booth No. 25 in Darhal District, Rajouri, Jammu & Kashmir during the April, 2009 Elections. He died in the night intervening 16th/17th April, 2009. The cause of death determined by the post-mortem was "cardiac arrest". The Court of Enquiry was subsequently ordered which went into the causes of death. This also took note of the medical documents and other materials on the record and on 30.07.2009 recommended that the petitioner should receive all benefits. It is not in dispute again that the CRPF has extended family pension which the petitioner is entitled to in terms of the policies applicable to Central Government employees. Her claim is that despite request, extraordinary pension, in terms of

the Central Civil Service (Extraordinary Pension) Rules-alleged to be payable by the respondents on account of her husband's untimely death on duty, has not been released. It is pointed out on behalf of the petitioner that the joint reading of Rules 2, 3, 3A(1)(b) and 5 entitles her the pension. It is submitted that the petitioner was never diagnosed with any cardiac disease and that his death was directly attributable to the duties he was assigned. The CRPF contends that even though late Head Constable Ravinder Singh died due to cardiac arrest, the petitioner cannot claim extraordinary pension. The CRPF relies upon the Court of Enquiry report which states that the disease or condition which led to the petitioner's husband's death was not attributable or aggravated by employment with the CRPF. It is pointed out further that the death of late Head Constable Ravinder Singh occurred whilst he was asleep and not on duty.

3. Rule 2 of Central Civil Service (Extraordinary Pension) Rules spells out the class of Civil Servants who are entitled to extraordinary pension. The petitioner clearly fell into it because only those employed after 01.01.2004 are not covered. The expressions "injury and disease" have been defined in Rule 3 (3) and 3 (4) respectively.

4. Rule 3-A (1)(b) inter alia reads as follows:--

"Death shall be accepted as due to Government service provided it is certified that it was due to or hastened by-

- (i) a wound, injury or disease which was attributable to Government service, or
- (ii) the aggravation by Government service of a wound, injury or disease which existed before or arose doing Government service".

5. Rule 3(A)(2) requires a causal connection between-(a) disablement and Government service; and (b) death and Government service, for a successful claim for extraordinary pension. In this regard, guidelines, known as "Guidelines for Conceding Attributability of Disablement or Death to Government Service" have been framed. Interestingly, Rule 4(b) provides that a person subject to the disciplinary code of a Central Armed Police Battalion (such as CRPF) is deemed to be "on duty" when performing an official task, failure to do which would constitute an offence, triable under the disciplinary code, applicable to him. In other words, even the omission of an act on account of absence which ordinarily the personnel is expected to perform or fails to do would also be deemed "service" for the purpose of grant of extraordinary pension.

6. Para 5(b), in fact, categorically provides (i) a disease which has led to an individual's discharge or death will ordinarily be deemed to have arisen in service if no note of it was made at the time of the individual's acceptance for Government service. However, "if medical opinion holds, for reasons to be stated, that the deceased could not have been detected on medical examination prior to acceptance for service, the disease will not be deemed to have arisen during service".

7. In the present case, the Court has considered the original records of the CRPF. The medical opinion is silent and does not rule out the attributability of his death to his service. However, the Court of Enquiry report records that his condition was not attributable to the service. This, in the Court's opinion, was not warranted given that the only basis for concluding either way was the medical opinion which was silent on this aspect. The other important fact here is that an annual medical evaluation of the deceased was conducted on 18.12.2008 which shows that he was in SHAPE-I. In other words, the disqualifying conditions mentioned in para 5(b) of the Guidelines did not apply. It is also not on record that at any point of time since the deceased entered into the service, he had a cardiac condition or suffered from it.

8. In view of the above discussion, this Court is of the opinion that the petitioner's entitlement to extraordinary pension, which in terms of Rule 5 of the Central Civil Services (Extraordinary Pension) Rules would be over and above the other benefits she is entitled to, has been established. A direction is accordingly issued to the respondents to calculate the benefits payable under the Central Civil Services (Extraordinary Pension) Rules and ensure that the same are paid along with the arrears due to her for the period after 18.04.2009 within 12 weeks from today.

9. In the circumstances, the respondents shall also pay interest @ 10% per annum on the said amount.

The writ petition is allowed in the above terms.