
(1965) 10 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1462 of 1965

Sardar Maharaj Chand

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 20-10-1965

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Resumption of Jagirs Act, 1957 — Section 2(1), 3

Citation : AIR 1966 P&H 485

Hon'ble Judges : S.B. Capoor, J; I.D. Dua, J

Bench : Division Bench

Advocate : B.R. Aggarwal, for the Appellant; J.N. Kaushal A.G. and M.R. Agnihotri, for the Respondent

Final Decision : Dismissed

Judgement

I.D. Dua, J.—The fate of this writ petition hinges on a very short and simple point, though challenge on the ground of violation of the recognised rule of natural justice of hearing has also been faintly urged by the petitioner's learned counsel. The main point however, is whether the petitioner's case falls within the provisions of the Punjab Resumption of Jagirs Act 1957 (hereinafter to be called the Act).

2. In order to appreciate the controversy, the facts may briefly be narrated. The petitioner claims to belong to a notable family of the Punjab having long standing relations with the ruling family of the erstwhile Kapurthala State. The petitioner and other members of his family rendered meritorious services to the ruling family and also to the State of Kapurthala, and indeed the petitioner himself rendered valuable service during the second World War, at the same time liberally contributing to the war fund and providing other amenities to the soldiers.

The petitioner was rewarded by the ruling Chief of the Kapurthala State by conferring on him the honour of being his Darbari and also Honorary Musahib. On

17-2-1945. His Highness the Maharaja of Kapurthala was further pleased to order in favour of the petitioner a cash grant of Rs. 250 per annum which was described as Khillat allowance. This grant was to enure for the lifetime of the petitioner and was a personal honour and distinction conferred on him in reward of war services.

On 20-8-1948, the State of Kapurthala was integrated with the new state of Pepsu. This new State also continued paying the said allowance to the petitioner till 18-9-1951, when it was arbitrarily stopped. A suit was instituted by the petitioner seeking a declaration that he was entitled to receive this allowance for the rest of his life. This was ultimately disposed of by a Division Bench of this Court on 27-10-1960 in which it was held that the petitioner's right to receive the personal allowance could not be taken away by the new State. After this decision, the petitioner applied to the State claiming the Khillat allowance

In the meantime the Act was brought on the Statute book with effect from 13-11-1957. By means of a letter dated 24-8-1961, the Deputy Secretary to the Punjab Government, Revenue Department informed the petitioner that he was entitled to receive the Khillat allowance up to 13-11-1957 and that thereafter payment of this allowance stood resumed under the provisions of the above Act. The petitioner approached this Court under Article 226 of the Constitution (C. W. No. 1386 of 1961) against the order intimating him that the payment of the allowance had stood resumed. A learned Single Judge of this Court allowed this writ petition in the following words:

"The impugned order is not an order of any officer of the State Government, but it purports to be that of the State Government itself and it is possible to hold the view that the power u/s 8 cannot be invoked. As the petitioner would have no objection to a formal determination of the matter by the State Government, I give a direction that it should give a finding on the question whether the allowance claimed by the petitioner is a Jagir under Clause (d) of Sub-section (1) of Section 2 of the Act. All that has been said in the written statement of the respondent State is that the "Khillat allowance" is not a pension and is resumable as a Jagir under the Punjab Resumption of Jagirs Act, but actually there does not appear to have been any formal adjudication of this question.

The petition is accordingly allowed to the extent that the State Government would be required to give a definite decision on the point raised in this petition, namely, whether the allowance claimable by the petitioner is or is not a Jagir?"

It is after this decision by Shamsheer Bahadur J. that the Government is understood to have made the order contained in the memorandum dated 29-9-1963 resuming the Khillat allowance and it is this order which is attacked in the present proceedings.

3. Now, according to the memorandum, Annexure "G" to the writ petition, the Government has examined the case and is of the opinion that since Khillat was a cash grant to S. Maharaj Chand in respect of his office as an Honorary Musahib

and State Darbari, it is covered by the provisions of the Punjab Resumption of Jagirs Act, 1957 and consequently stands resumed u/s 3 of the Act.

4. The principal challenge to the impugned order, which has been pressed before us by the petitioner's learned counsel, Shri B. R. Aggarwal, is that this cash allowance is not a Jagir, and he has read to us the definition of the word "Jagir" as given in Section 2 (1) of the Act. The attack on this ground, if meritorious, would conclude the case in favour of the petitioner, but, in my opinion, this challenge is wholly misconceived and completely unsupportable on plain reading of the relevant provision of the law.

The statutory definition of the word "Jagir" so far as relevant for our purposes, may here be read:

"Jagir, unless the context otherwise requires, means: (a) * * * *

(b) * * * *

(c) * * * *

(d) any grant of money not being payable out of the revenues of the Central Government including anything payable on the part of the State Government in respect of any right, privilege, perquisite or office; and includes, notwithstanding anything contained in Sub-clause (ii), any such grant or assignment, etc., etc."

The counsel has confined his arguments only to Clause (d) and the submission strongly pressed before us is that the allowance in question is not payable in respect of any right, privilege, perquisite or office and that it also does not fall within "grant" or "assignment", etc., mentioned in this clause. This contention is, in my view, clearly inadmissible on the plain statutory language because the clause in question opens with the words of very wide magnitude. The expression "any grant of money not being payable out of the revenues of the Central Government" has a broad range and its scope is not confined or restricted by what follows the word "including". Its range is certainly not circumscribed or limited by what follows the word "includes". When confronted with this position, the learned counsel for the petitioner had practically nothing serious to urge in support of his submission. Needless to point out that it is not the petitioner's case that this allowance is excluded by Sub-clauses (i) to (iv) mentioned in Clause (d).

5. A lukewarm attempt has, however, been made to press into service the ancient rule of ejusdem generis. But this doctrine, which is to be applied with caution and not pushed too far, seems to me to be wholly inapplicable to the present case. In order to attract this doctrine, there should be in the statute concerned general words following particular and specific words which constitute a distinct category class or genus. In such a contingency, this doctrine attempts to reconcile an incompatibility between specific and general words in the light of other rules of statutory construction, for example, that the Legislature is presumed not to have used superfluous words. This is really a question of

assumed intention of the statute. This rule can clearly have no application when general words precede the enumeration of particular instances and a fortiori when such enumeration is designed by way of abundant caution or otherwise to widen the scope of the general words, as in the present case, by using the words like "includes" or "including". This proposition, in my opinion, is difficult to dispute.

6. The counsel has also urged, though somewhat faintly, that his client had not been personally heard before this decision was given and, therefore, the impugned order is vitiated as being violative of the recognised rules of natural Justice. He has, however, attached with the writ petition a detailed memorandum dated 5-5-1963 in which he had fully stated his case pursuant to the direction, dated 18-1-1963 given by this Court in C. W. 1386 of 1961. Now, undoubtedly one of the fundamental rules of natural justice, which is of almost universal validity, is that a man has a right to be heard. It is, however, not a technical conception with a fixed content unrelated to time, place and circumstances. Expressing as it does in final analysis, respect enforced by law for the feeling of just treatment evolved through centuries of British and American constitutional history and also through years of Indian constitutional history and civilization, it represents a profound attitude of fairness between man and man and particularly between individual and Government, and seems to me to embrace the whole notion of fair procedure. It does not necessarily imply a personal hearing in all sets of circumstances, though statute may provide for it or peculiar circumstances of a given case may appropriately imply personal hearing. In the present case, when the petitioner approached this Court on the earlier occasion on the writ side, no direction was given in this Court's order for a personal hearing; the petitioner thereafter made a detailed representation stating his case. This, in my view, fully satisfies the requirements of the above rule of natural justice, which only ensured to the petitioner an opportunity of adequately presenting his case before any decision to his prejudice was given. There is thus no merit in this grievance either.

7. The writ petition accordingly fails and is dismissed, but in the circumstances of the case, we make no order as to costs.