
(2001) 03 P&H CK 0150
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12974 of 1995

Smt. Paramjit Kaur

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2001) 03 P&H CK 0150

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. B.S. Sehgal, for the Appellant; Mr. S.K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

R.L. Anand, J.—Smt. Paramjit Kaur has filed the present writ petition under Articles 226/327 of the Constitution of India and it has been prayed by her that a writ of mandamus be issued in her favour directing the respondents to give her the benefit of family pension with effect from 2.11.1970.

2. Some facts can be noticed in the following manner. The husband of the petitioner, Shri Pal Singh, joined the Indian Army on 17.6.1963. He was boarded out from the service on account of disability on 7.7.1971. At the time of the recruitment, the husband of the petitioner was placed in category "A" but at the time of invalidation he was placed in category "C" permanent with disability of 40%. A shelter appointment was offered to the husband of the petitioner which was accepted and on 13.6.1972 the husband of the petitioner wrote to the army authorities that he is not interested in the job as a result of that he was discharged from the army on his request. The husband of the petitioner admittedly died on 2.11.1990.

3. The case set up by the petitioner is that since her husband was a pensioner at the time of his death or a deemed pensioner, therefore, she is entitled to the

benefit of family pension.

4. On the contrary, the stand of the respondent is that the husband of the petitioner was never given the benefit of disability pension and that he never made a prayer that he "should be awarded disability pension during his life time and that at the time of his death, husband of the petitioner was not pensioner, therefore, the widow Smt. Paramjit Kaur is not entitled to the benefit of family pension.

5. I have heard Shri B.S. Sehgal, learned Counsel appearing on behalf of the petitioner and Shri S.K. Sharma, learned Counsel appearing on behalf of the respondents and with their assistance have gone through the record of this case.

6. The point for determination in this case "whether the petitioner Smt. Paramjit Kaur is entitled to the benefit of family pension with effect from 2.11.1990 on account of the death of her husband or not ?"

7. The learned Counsel for the petitioner has tried to convince me that there is no satisfactory proof on the record that any shelter appointment was offered/ given to the husband of the petitioner. Rather, it is the admitted fact that the husband of the petitioner was discharged from service on account of medical ground on 7.7.1971. Therefore, the husband of the petitioner was entitled to the disability pension. Since this benefit was to the credit of the husband of the petitioner right up to his death, therefore, it shall be presumed and inferred that the husband of the petitioner was a pensioner and, therefore, after the death of the husband of the petitioner, she is entitled to the benefit of family pension. The submission of the learned Counsel for the petitioner cannot be accepted in view of the letter dated (sic) shown to me by the learned Counsel for the respondents. The photo copy of this letter is ordered to be placed on record. This letter would show that Shri Pal Singh, the husband of the petitioner made a request to the army authorities that he was enrolled in the army on 17.6.1963 and that he also made a request to the authorities that he should be discharged from the army service on extreme compassionate ground so that he could help his family members. Since it was a voluntary resignation on the part of the husband of the petitioner, therefore, the husband of the petitioner was not entitled to any benefit of the disability pension. Also it is established on the record that shelter appointment was offered to the husband of the petitioner which was accepted in 1971 and in the year 1972 he left the army service of his own. There is no proof on the record to show that from 1971 onwards the husband of the petitioner got any benefit of disability pension from the army authorities.

In these circumstances, it cannot be held or inferred that the husband of the petitioner was a pensioner at the time of his death. In these circumstances, the petitioner is not entitled to the benefit of the scheme. She is also not entitled to the family pension as prayed for by her. Resultantly, this writ petition is hereby dismissed with no order as to costs.

8. Petition dismissed.