
(2012) 01 SHI CK 0126
In the High Court Of Himachal Pradesh
Case No : CWP No. 1177 of 2008

Smt. Premo Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Citation : (2012) 01 SHI CK 0126

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Judgement

Surinder Singh, J.—The petitioner claims herself to be a widow of Sepoy Lachoo S/o Jeoni No. 5703, who was serving in Sikh FF (Frontier Force). It is contended that he was a pensioner, drawing pension from Post Office, Kotla Tehsil Jwali (earlier Tehsil Nurpur), Distt. Kangra, H.P. till his death in the year, 1951-52.

2. The contention of the petitioner is that Sepoy Lachoo aforesaid fought World War (1914-1919) and served the Army till the year 1933. Thereafter, he was retired and was getting pension @ Rs. 16/- per month. Further during 2nd World War (1939-45), he was recalled to join the Army, when the War was over, he was again discharged from the Army, but he continued to take the pension from the said Post Office.

3. Subsequently the 1st respondent Government of India, through Ministry of Defence vide its letter dated 12.5.1986 (Annexure P-1) decided that ex military personnel and widows would be entitled to pension/family pension, irrespective of the fact, whether they retired or died before 1964 or earlier or otherwise not covered by the family pension scheme of 1964 (including widows and children of O.R Reservists who were transferred to Pension Establishment before 1.3.1968).

4. The petitioner contended that she represented to the Regiment record office for the grant of family pension under the Revised Family Pension Scheme, 1964, but there was no response. She also contacted various State authorities including the Deputy Director Sainik Welfare Officer, Chamba, but of no avail. According to

the petitioner though she was asked to submit certain documents, relevant in deciding the family pension, but she was not possessed of any except a medal of her husband which was awarded in 1st World War. Ultimately, the petitioner served legal notices on the respondents which did not yield any result. The petitioner also submitted that her husband was granted land in Village Tikri Sub-Tehsil Sihunta, Tehsil Bhatiat, Distt. Chamba, H.P. in lieu of his having participated in the World Wars. To this effect, she also appended the copy of intimation (Annexure P-13). The medal aforesaid contained the name of Sepoy Lachoo and serial number 5703 on its rim. Its photocopy is Annexure P-14. Despite various representations to the various authorities, she failed to get any relief, as such, petitioner filed writ of mandamus directing the respondents to grant family pension in pursuance to Annexure P-1 from the due date along with interest.

5. The respondents, in reply, still insisted upon the petitioner to produce certain documents mentioned in para No. 2 thereof, to which she failed to supply. Even during the pendency of this petition, this Court also made various attempts to trace the service record of said Shri Lachoo from the respondents by passing various orders, one of such order is dated 18.11.2010, which reads as under:-

Petitioner claims to be the widow of a Sepoy, by the name of Lachho, who served in Indian Army in both the World Wars. Her contention is that Lachho was a pensioner and he died in the year 1951 and had been drawing pension till his death. She has stated that under the Scheme notified in the year 1986, she is entitled to family pension. Respondents have filed reply, in which, it is stated that there is no record available indicating if there was any Sepoy by the name of Lachho employed during the World Wars and had been granted pension.

Today during the course of hearing, one medal has been produced. Its facsimile is already on record. On the surface of the diameter of this medal figure `703" and words `Sepoy Lachho" are written. Learned Assistant Solicitor General is requested to note down these particulars mentioned on the medal and attempt be made by the respondents on the basis of these particulars to trace service record of Sepoy Lachho and thereafter reply be filed whether there was any person by the name of Lachho, employed in the Indian Army and the aforesaid medal had been awarded to him.

Eight weeks time is granted for the purpose. Matter be listed on 24.2.2011.

6. Further vide order dated 24.2.2011, respondents were required to make another effort to verify from the record on the basis of the medal 5703, instead of 703 qua deceased Sepoy Lachoo and out of such an exercise was ordered to be incorporated in reply affidavit. Again after perusing the supplementary affidavit filed by the respondents, this Court passed the following orders on 13.5.2011:-

Supplementary affidavit in terms of order dated 24.2.2011, stands filed, wherein it is stated as under vide para 5:-

That in terms of order dated 21.4.2011, the matter was again re-looked into by the Army authorities and service particulars were verified on the basis of Long Rolls which revealed that Army/ Personal number 703 does not pertain to so-called Sepoy Lachho. Army/ Personal number 5703 was allotted to Sepoy Sarwan Singh and not to the So-called Sepoy Lachho i.e. husband of the petitioner. Further scrutiny of Long Rolls also revealed that Army/ Personal number 3161 pertains to one Sepoy Labha and not to the husband of the petitioner namely so-called Sepoy Lachho.

However, the learned counsel for the petitioner submits that in letter dated 27.5.2007, Annexure-P-2, sent by respondent No. 4, Deputy Director, Sainik Welfare, District Chamba, H.P., to respondent No. 6, Post Master, Post Office Kotla, there is a handwritten endorsement dated 29.5.2007, at the bottom made by respondent No. 6, Post Master, Post Office Kotla, that "all pension record has been transferred to the DPDO, Dharamshala", which, prima facie, goes to show that the relevant pension record in respect of the deceased husband of the petitioner may be lying in the office of respondent No. 5, DPDO, Dharamshala. In such circumstances, there shall be a direction to respondent No. 5, DPDO, Dharamshala to verify the facts and file supplementary affidavit clarifying the position in this regard within six weeks from today.

List on 29.6.2011.

7. Thereafter, 5th respondent was also required to file supplementary affidavit clarifying the position, as mentioned in order dated 13.5.2011, because on the perusal of the record, as observed vide order dated 21.7.2011, it transpired that 4th respondent vide his letter dated 27.5.2007 (Annexure P-2), made a mention in para 13 that Sepoy Lachoo, Serial No. 5703 was drawing pension from Tehsil Jwali, Distt. Kangra, H.P. up to the year 1951-52. Thus 4th respondent was directed to produce the record on the basis of aforesaid mention. The supplementary affidavit was filed, on its perusal, this Court passed the following orders on 1.9.2011:

The supplementary affidavit stands filed by the respondents. The particulars of the petitioner could not be traced. However, learned counsel for the petitioner has shown a similar medal issued to Naik Shri Ram whose widow Kubja Devi was granted family pension, whose records were traced out by D.P.D.O Dharamshala which shows that he was in 5th Battalion 10 Baluch Regiment record whereof is maintained by the Dogra Regiment.

Let one more attempt be made by the respondents to find out the particulars of Sepoy Lachoo from Dogra Regiment and also from Kumaun Regiment. The long rolls of the Kumaun Regiment be also produced for perusal.

Vide order dated 21.7.2011, respondent No. 4 was also directed to produce record of Sepoy Lachoo with respect to the pension in view of Annexure P2 which has not been produced. It be also produced on the date fixed hereinafter.

List the matter on 24.10.2011. Copy dasti.

8. The long rolls were produced, as ordered. It was perused by the Court as well as Counsel for parties. The name of husband of the petitioner also did not find mentioned in the record of Kamaun Regiment, as also in the Dogra Regiment. However, against Sepoy No. 5703 in the records of the Dogra Regiment, there was the name of another person Mandar Singh, but not of Lachoo.

9. The 4th respondent was directed to produce the record of pension. According to him, communication was only sent by him vide Annexure P-2 on the statement of the petitioner and her care taker.

10. The learned Counsel for the petitioner also submitted that some information was sought for under R.T.I Act, but that has also not been supplied, as they have sought for the PPO number etc. from the petitioner to which she does not possess.

11. Every endeavour has been made by this Court to find out, if husband of the petitioner was a pensioner from the Army but all the exercise ended in fiasco.

12. Now, since respondents No. 2 & 3 are the custodian of the record of the Ex-Servicemen under the respondent No. 1, therefore, it is directed that respondents No. 1 and 2 shall take a final decision in the matter within three months from the production of the certified copy of this judgment/order to any of the respondents aforesaid, in respect of the family pension of the petitioner, keeping in view the policy (Annexure P-1), vis-?-vis Annexure P-2, which bears the noting of the Post Master, Kotla, after determining the genuineness of the medal which shall be produced by the petitioner or her duly authorized agent before the competent authority, as per directions of the respondents aforesaid.

Accordingly, petition stands disposed of.