

(2001) 01 J&K CK 0015

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 589 Of 2000

Sobhi Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 31-01-2001

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2001) JKLR 564 : (2001) KashLJ 231

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Sandeep Singh, R.K.Gupta, Advocates appearing for the Parties

Judgement

1. Seventy years old petitioner is making all out efforts to have some monetary benefits which as per her was available to her husband. Her

husband Gura was enrolled in 5/14 Punjab Regt. on 22nd of March, 1939. He was discharged from Army services on account of demobilisation.

He had served war service in Malaya from 2nd of August 1939 to 14th of Feb., 1942 and again from 5th of August, 1945 to 3rd of Dec., 1945.

He was prisoner of war also. This was from 12th of Feb., 1942 to 14th of Aug., 1945. The discharge certificate does indicate that her husband

had received medals of star, pacific star, defence stars and war medal. The petitioner's husband was not granted any regular pension. He however,

was pursuing his case for grant of pension, which was normally payable to freedom fighters. He had submitted an application in this regard. This is

annexure ""C"" to the petition. Her case is that to this category of employees pension as was available to freedom fighters was being granted. It is

submitted that this was granted to his colleagues also. The requisite averments are made in paragraph ""8"" of the petition.

2. The respondents have filed counter. The stand taken in paragraph ""8"" of the reply is to the following effect :

That the contents of Para8 are wrong hence denied. It is further submitted that Sh. Sunder Singh bearing Army No. 3263 is not existing in the long roll and no. 15252 Ex. Sep. Bija Singh was released from Indian Army on 29.8.1946. There is no mention regarding grant of any type of pension to him in the long roll. Sheet roll in his respect has also been destroyed after the prescribed retention period expired. Hence factual position cannot be ascertained.

3. The learned counsel for the petitioner submits that the number of Sunder Singh was wrongly written as 3263, his correct number is 12363. It is

submitted that this should have been verified from annexure""C"". The further is that with regard to Bija Singh no specific reply has been given. If this

be the position then the petitioner's husband would have been entitled to the same benefit as had been allowed to Bija Singh. The respondents

should have verified the records of Sunder Singh by taking into consideration the information given in annexure""D"". The service rendered by

Sunder Singh is in the same regiment and is for the same period. The respondents while giving the reply should not have gone by the averments

made in the writ petition, but should have also examined the certificate issued above. This is annexure ""D"" to the petition. The respondents have not

done so. They have not given specific reply with regard to certificate annexure D. In this situation, this petition is allowed. The petitioner is held

entitled to the same benefit which have been given to Sunder Singh and Bija Singh. The service particulars of these two persons namely Sunder

Singh and Bija Singh are contained in annexure ""D"" and ""E"". Let the petitioner's pension be calculated and released in favour of the petitioner within

a period of two months from the date copy of the order passed by this Court is made available by the petitioner to the respondent authorities. In

case this is not released within the period stipulated above, then the petitioner would be entitled to interest @ 12%. The interest would be payable

by the person on whose account delay occurs. For arrears the rate of interest is fixed at 6%.