

(1960) 10 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1413 of 1959

Uttam Chand

APPELLANT

Vs

Chief Settlement Commissioner and Another

RESPONDENT

Date of Decision : 26-10-1960

Acts Referred:

Constitution of India, 1950 — Article 226
Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 4, 7, 8
Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 65, 65(1)

Citation : AIR 1962 P&H 163 : (1961) 1 ILR (P&H) 785

Hon'ble Judges : Shamsher Bahadur, J

Bench : Single Bench

Judgement

(1) The facts giving rise to this petition under Article 226 of the Constitution of India are not in controversy and may be briefly narrated. The petitioner, Uttam Chand got a claim registered in respect of the property left behind by him in Pakistan. The registered number of his verified claim is 2539. The registered number of the verified claim to Lal Chand father of the petitioner, who had separate property, is No. 2540. Lal Chand died on 20th February 1952, without having been allotted any property in his name.

(2) It is common ground that the petitioner, who has been allotted agricultural land measuring more than 4 acres, is not entitled to any compensation under Rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules, his verified claim being less than Rs. 20,000/-. The relevant rule is to this effect:

"65. (1) Any person to whom four acres or more of agricultural land have been allotted shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. 20,000/-."

The petitioner, however, claimed compensation in lieu of the verified claim of his father being his only son. Lal Chand, whose claim had been verified for Rs. 18,000/- in respect of two separate properties valued at Rs. 4,300/- and Rs.

13,700/-, was not allotted any property and was clearly entitled to compensation in respect of his verified claim which is less than Rs. 20,000/-. The settlement authorities have held that the petitioner being already in possession of the allotted property, is not entitled to claim compensation in respect of the verified claim of his father. This does not appear to me to be a correct interpretation of Rule 65(1). The scheme of the Act leaves no room for doubt that an individual person's claim has to be dealt with separately. A verified claim, under the Displaced Person (Compensation and Rehabilitation) Act, 1954, is a claim which has been registered under the relevant statutory provisions and has been verified by any authority appointed for the purpose by the Government of the Punjab of the Government of Pepsu and which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification. Admittedly, no allotment had been made in favour of Lal Chand till his death on 20th of February 1952. The application of Lal Chand was duly presented for payment u/s 4. It may be that the petitioner had been pursuing the claim presented by Lal Chand after 20th February 1952, and the claim came to be verified under his name. It has, however, to be observed that the amount of compensation has to be determined in respect of each verified claim u/s 7. Section 8 says that "a displaced person shall be paid out of the compensation pool the amount of net compensation.....""determined under the Act and in such from" as may be prescribed." It seems to me that pension is absolute and mandatory and cannot be the subject of the caprice of the Settlement authorities.

(3) The rules which have been prescribed under the Act, inter alia, deal with the form and manner of payment of compensation and Rule 65, under which the petitioner's claim has been rejected, does not appear to me to be applicable as no allotment had been made in respect of this particular claim to Lal Chand or indeed any one else. The right to claim compensation in respect of the verified claim has been inherited by the petitioner as the only heir of Lal Chand. It is not disputed that the petitioner is entitled as the heir of Lal father's verified claim. If Lal Chand had been alive, there can be no doubt that he would have been entitled to receive compensation and the construction which has been put on Rule 65(1) by the Departmental authorities has the effect of bringing about this astounding result that the death of Lal Chand extinguishes his claim a result which could not conceivably have been in contemplation of the Legislature and indeed runs counter to the true scope and purpose of the Rules. There is no reason, in my opinion, to aggravate the misfortune suffered by the petitioner in his father's death by putting a strained interpretation on Rule 65(1) to deprive him even of the inheritance which he is entitled to receive as the heir of the deceased.

(4) In my view, there is a manifest error of law committed by the authorities and I would accordingly allow this petition and quash the orders of the Settlement authorities which are Annexures "A" and "B" to this petition. The petitioner would get the costs of his petition.

KE/J/DHZ.

(5) Petition allowed.