

(1998) 11 P&H CK 0024

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 2115 of 1994

Smt. Kanta Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Nov. 10, 1998

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (1999) 121 PLR 277

Hon'ble Judges: T.H.B. Chalapathi, J

Bench: Single Bench

Advocate: Surya Kant, for the Appellant; Kamal Sehgal, for the Respondent

Final Decision: Allowed

Judgement

T.H.B. Chalapathi, J.

The Petitioner is the widow of Havaldar Nagar Mal, who was enrolled in the Army as Sepoy on 20.6.1979. At the time of enrollment, the petitioner's husband was physically and mentally fit. During his service in the Army, he also obtained a degree in law and also cleared his map reading course. Throughout his career in the Army his service record was good. On 7.2.1989 he was discharged from the Army on medical ground that he developed disease known as "Non Organic Psychosis." After the discharge from the Army, the petitioner's husband made representation to the authorities for the grant of disability pension, but the same was denied to the petitioner's husband. The petitioner's husband died on 2.3.1991 in a railway accident. The petitioner also made a representation for granting disability pension to her husband, but the same was denied on the ground that the disease of the petitioner's husband was not attributable to Military service. Therefore, the petitioner was compelled to approach this Court seeking issuance of a writ of certiorari to quash the order of the respondents denying the claim of the petitioner's husband for disability pension and also for a writ of mandamus directing the respondents to release disability pension to her husband from the date

it became payable.

2. The respondents resisted the claim of the petitioner solely on the ground that the disease of the petitioner's husband was not attributable to Military Service.

3. There is no dispute of the fact that at the time when the husband of the petitioner was enrolled in the Army, he was medically examined and was found fit. It was only in the year 1989 the petitioner's husband was found to be suffering from mental illness. He was admitted in the Army Hospital for treatment. There is no history that the petitioner's husband. His word was found to be satisfactory. Therefore, it cannot be said that the petitioner's husband was earlier suffering from the mental illness. In fact his service record throughout admittedly was good. He also obtained a Degree in Law during his service. Further there was no complaint of any nature against the petitioner's husband. His work was found to be satisfactory. Therefore it can not be said that the petitioners husband was suffering from mental illness either at the time of joining the service or it is a constitutional disease. There cannot be any doubt that a person may get frustrated due to strict disciplinary service and afflicted with mental illness. Psychosis causes major mental problem and it includes manic depression and it will be associated with chemical changes in the brain. If it is constitutional one, mental deficiency will be diagnosed in the childhood itself, but strain and stress also may cause mental illness. There cannot be any doubt that such conditions as anxiety and depression will also cause mental illness leading to psychosis. The petitioner's husband was found fit when he was enrolled and till 1989 he was a normal person and acquired academic qualification like degree in Law during his career in the Military and when his work throughout for a period of 10 years was satisfactory, it cannot be said that the disease was constitutional and is not attributable to the Military Service.

4. On the facts of the case, I am satisfied that the disease "Psychosis" suffered by the husband of the petitioner was solely attributable to Military Service. I am, therefore, of the opinion that the petitioner is entitled to disability pension due to her husband from the date it became payable.

5. Accordingly, I allow the writ petition and direct that respondents to release the disability pension to the petitioner in accordance with the rules from the date it became due to her husband within three months from the date of receipt of this order positively.