

(2008) 11 AHC CK 0148

Allahabad High Court

Case No: None

Smt. Vineeta Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Nov. 15, 2008

Citation: (2009) 120 FLR 495

Hon'ble Judges: S.U. Khan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

S.U. Khan, J.

Shri Uttam Singh - husband of the petitioner was constable in UP. Police. According to the petitioner he suffered heart attack while on duty and thereafter died. Petitioner applied for extra-ordinary pension which has been refused. The allegation of the petitioner is that her husband felt pain in chest while he was on duty on 15.11.2003 and he was referred to civil hospital where it was detected that he had suffered heart attack. He died in hospital on the same date i.e. 15.11.2003. Finance & Accounts Officer, U.P. made a recommendation on 26.9.2005 to Deputy Secretary, Government of U.P. Home (Police) Lucknow for grant of extra ordinary promotion. However, it was not accepted and was rejected through order dated 11.8.2005 copy of which is Annexure-13 to the writ petition. Thereafter detailed order was passed on 23.11.2006 Chief Finance & Accounts Officer, U.P. Police Head Quarter, Allahabad refused the claim and held that it was not covered by U.P. Police (Extra Ordinary Pension) Rules, 1961 as amended in 1975.

2. I do not find any error in the impugned order. Extra ordinary pension means full pay till the date on which the incumbent, if alive, had remained in service. It is admissible only If death is related with the duty. There is no evidence that the duty assigned to the deceased was more strenuous than normally assigned to holders of the same post. The death of the husband of the petitioner as a result of heart attack was unfortunate however, it cannot be said that it was directly related with the duty.

Nothing was brought on record to suggest that petitioner suffered heart attack due to strenuous duty.

3. Rule-3 of the Pension Rules, (without proviso) as amended in 1975 is quoted below:

3. These rules shall apply to all the police officers and men (gazetted and non-gazetted both) whether employed in a permanent or temporary capacity under the rule making control of the Governor, who are killed or who die in encounters with dacoits or armed criminals or with foreign hostiles, or, in the course of performance of any other duty.

4. The principles governing grant of compensation for personal injury (including death) caused to a workman by accident arising out of and in the course of his employment as provided under Workmen Compensation Act, 1923 may be taken into consideration while deciding the question of extraordinary pension.

5. Supreme Court in [Shakuntala Chandrakant Shreshti Vs. Prabhakar Maruti Garvali and Another](#), has held that employer is liable to pay compensation under Workmen Compensation Act to an employee, who dies of heart attack, only if it is established that death was caused by reason of failure of heart because of stress and strain of working.

6. In the instant case, there being no such position, petitioner is not entitled to extra-ordinary pension.

7. Accordingly, there is no merit in the writ petition hence it is dismissed.