

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.583-584 OF 2017
(@SLP(C) Nos.644-645 OF 2011)

UNION OF INDIA & ORS. . . . APPELLANT (s)

VERSUS

RAJWANTI RESPONDENT (s)

O R D E R

Delay condoned.

Leave granted.

Service has been effected on the respondent, but no one has even entered appearance on behalf of the respondent.

We have heard learned Solicitor General on merits.

The respondent's husband had joined the Army some time in March, 1981 and he was discharged on 17th November, 1986 on account of a disability inasmuch as he was suffering from Neurosis.

The respondent's husband preferred an appeal before the Central Government, but that was rejected on 31st May, 1989. The respondent's husband took no action thereafter except filing a writ petition some time in the year 2006, that is after a delay of about 17 years. The writ petition was withdrawn by the respondent's husband with liberty to type a proper petition with complete

facts and supporting documents. Liberty to withdraw the petition, as prayed for, was granted.

Thereafter, the respondent's husband died on 17th April, 2007 and subsequently his widow, i.e., the respondent herein preferred a writ petition in the High Court in which she claimed disability pension on behalf of her husband as well as family pension.

It appears to us that the High Court ought not to have entertained the petition filed by the respondent's husband after a gap of 17 years, particularly when there was absolutely no explanation for the delay. That being the position, in our opinion, the claim for disability pension ought not to have been entertained when the writ petition was filed by the respondent.

Learned Solicitor General submits that the requirement for entitlement of family pension is if a person works in the Army for 15 years. That is not the case so far as the present appeals are concerned. That apart, since we have held that the respondent's husband is not entitled to disability pension, the grant of family pension also does not arise. Finally, since the respondent's husband did not die in service, even that eventuality for grant of family pension does not arise in this case.

Therefore, looking into the matter from any angle, we are of the view that the respondent is not entitled to any family pension. Accordingly, we allow the appeals filed by the Union of India and set aside the order passed by the High Court.

However, we make it clear that if any amount has been paid to the respondent that will not be recovered by the Union of India.

.....J.
(MADAN B. LOKUR)

.....J.
(PRAFULLA C. PANT)

NEW DELHI
JANUARY 16, 2017

ITEM NO.42

COURT NO.5

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).644-645/2011

(Arising out of impugned final judgment and order dated 05/08/2008 in WPC No. 12955/2007 and 09/10/2009 in RA No. 365/2009 passed by the High Court of Punjab & Haryana at Chandigarh)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

RAJWANTI

Respondent(s)

(with appln. (s) for c/delay in filing SLP and interim relief and office report)

Date: 16/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Ranjit Kumar, SG
Ms. Binu Tamta, Adv.
Mr. P.K. Mullick, Adv.
Mr. M.K. Maroria, Adv.
Mrs. Anil Katiyar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed
order.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)