



249 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-6982-2019 (O&M)  
Date of decision : 12.08.2025

Hakam Singh

..... Appellant

Versus

Swaran Kaur & anr.

..... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :- Mr. Rajeev Anand, Advocate  
for the appellant.

Ms. Manvi Arora, Advocate  
for respondent No.1.

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**PANKAJ JAIN, J. (ORAL)**

1 Present appeal is directed against order dated 29.07.2019 passed by Additional District Judge, SAS Nagar, Mohali whereby appeal preferred by the appellant against order dated 12.12.2015 passed by the Additional Civil Judge, (Sr. Division), SAS Nagar granting Succession Certificate under Section 372 of the Indian Succession Act, 1925 (for short 'the 1925 Act') has been dismissed.

2 The dispute relates to benefit accruing from Army Group Insurance Fund Scheme under which deceased-son of the appellant namely Sukhwinder Singh was insured.

3 Respondent No.1-mother filed petition under Section 372 of the 1925 Act seeking Succession Certificate with respect to the aforesaid benefit accruing from the Group Insurance policy.



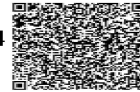
4           The petition was contested by the present appellant claiming that he was nominated by the deceased to receive the entire benefits from the authorities. The said nomination amounts to execution of WILL in his favour and thus appellant-father is entitled to receive all the benefits. The Court of the First Instance relied upon ratio of law laid down in *Shipra Sengupta Vs. Mridul Sengupta & ors., 2009(4) CivCC 77* to hold that the mere nomination does not lead to exclusion of the legal heirs. Holding mother to be the only Class-I legal heir in terms of Section 8 of the Hindu Succession Act, 1956. The Trial Court allowed the application and granted the succession certificate to the mother-respondent No.1.

5           The aforesaid findings stand affirmed in the appeal.

6           Mr. Rajeev Anand, Advocate has assailed the findings recorded by the Courts below. He relies upon Section 2 (2) read with Section 33 of the Armed Forces Tribunal Act, 2007, (for short 'the 2007 Act) to submit that Group Insurance Benefits, being in the nature of service benefits, the jurisdiction of the Civil Court is barred and it is only the Armed Forces Tribunal which can adjudicate upon the issue. He further submits that Sukhwinder Singh died leaving behind both parents as well as three sisters and thus father being nominee is entitled to the insurance benefits.

7           I have heard counsel for the parties and have carefully gone through records of the case with their able assistance.

8           In order to appreciate the plea raised by counsel for the appellant it will be apt to peruse Section 3(o), Section 14 and Section 33 of the 2007 Act which read as under :-



*“3 (o) “service matters”, in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include—*

*(i) remuneration (including allowances), pension and other retirement benefits;*

*(ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;*

*(iii) summary disposal and trials where the punishment of dismissal is awarded;*

*(iv) any other matter, whatsoever, but shall not include matters relating to—*

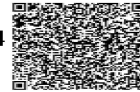
*(i) orders issued under section 18 of the Army Act, 1950 (46 of 1950), sub-section (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950 (45 of 1950); and*

*(ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);*

*(iii) leave of any kind;*

*(iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;*

**14. Jurisdiction, powers and authority in service matters.—(1)** *Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts (except the Supreme Court or a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to all service matters.*



(2) *Subject to the other provisions of this Act, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.*

(3) *On receipt of an application relating to service matters, the Tribunal shall, if satisfied after due inquiry, as it may deem necessary, that it is fit for adjudication by it, admit such application; but where the Tribunal is not so satisfied, it may dismiss the application after recording its reasons in writing.*

(4) *For the purpose of adjudicating an application, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely—*

*(a) summoning and enforcing the attendance of any person and examining him on oath;*

*(b) requiring the discovery and production of documents;*

*(c) receiving evidence on affidavits;*

*(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;*

*(e) issuing commissions for the examination of witnesses or documents;*

*(f) reviewing its decisions;*

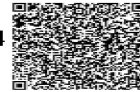
*(g) dismissing an application for default or deciding it ex parte;*

*(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte; and*

*(i) any other matter which may be prescribed by the Central Government.*

(5) *The Tribunal shall decide both questions of law and facts that may be raised before it.*

**33. Exclusion of jurisdiction of civil courts.**—*On and from the date from which any jurisdiction, powers and authority becomes*



*exercisable by the Tribunal in relation to service matters under this Act, no Civil Court shall have, or be entitled to exercise, such jurisdiction, power or authority in relation to those service matters.”*

9 Statement of objects and reasons behind the enactment of the 2007 Act reads as under :-

*“3. In view of the above, it is proposed to enact a new legislation by constituting an Armed Forces Tribunal for the adjudication of complaints and disputes regarding service matters and appeals arising out of the verdicts of the courts-martial of the members of the three service (Army, Navy and Air Force) to provide for quicker and less expensive justice to the members of the said Armed Forces of the Union.*

*4. Establishment of an independent Armed Forces Tribunal will fortify the trust and confidence amongst members of the three services in the system of dispensation of justice in relation to their service matters.*

*5. The Bill seeks to provide for a judicial appeal on points of law and facts against the verdicts of courts-martial which is a crying need of the day and lack of it has often been adversely commented upon by the Supreme Court. The Tribunal will oust the jurisdiction of all courts except the Supreme Court whereby resources of the Armed Forces in terms of manpower, material and time will be conserved besides resulting in expeditious disposal of the cases and reduction in the number of cases pending before various courts, Ultimately, it will result in speedy and less expensive dispensation of justice to the Members of the abovementioned three Armed Forces of the Union.”*

10 Supreme Court in ***Union of India Vs. Shri Kant Sharma (2015) 6 SCC 773*** spelled out the object behind the Act as under :-

***Object.-*** *Object of this Act is to provide for adjudication or trial by Armed Forces Tribunal of disputes and complaints with respect to*



*commission, appointments, enrolment and conditions of service in respect of Armed Forces and also to provide for appeals arising out of orders, findings or sentences of court martial and matters connected therewith or incidental thereto.”*

11 The present case relates to succession certificate. There is no dispute regarding service issue. So far as benefit payable on the death of the insured Sukhwinder Singh under Army Group Insurance Fund Scheme is concerned, there is no dispute. The dispute is as to who is entitled to receive the same. The two rival parties claiming themselves to be successors are fighting for the succession certificate.

12 In view thereof, this Court finds that the objection raised by Mr. Rajeev Anand, Advocate for the appellant regarding maintainability of the petition *sans merit* and cannot be accepted. The *inter-se* dispute for entitlement of Group Insurance Fund Scheme cannot be said to be a service matter that would fall within the ambit of Section 3 (o) of the 2007 Act and thus shall not fall within the jurisdiction of AFT as contemplated under Section 14 of the 2007 Act. Accordingly, jurisdiction of Civil Court cannot be held to be barred under Section 33 of 2007 Act.

13 So far as the issue with respect to succession of Sukhwinder Singh is concerned, the same has to abide by Section 8 of the Hindu Succession Act, 1956. Trite it is that nomination cannot exclude the entitlement of successor under operation of law.

14 In view thereof, finding no merits in the present appeal, the same is ordered to be ***dismissed***.



15 Pending miscellaneous application, if any, also stands disposed off.

**12.08.2025**  
*Pooja Sharma-I*

**( PANKAJ JAIN )**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No