

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10960 of 1999

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Sri Prem Lal Mahto, son of late Sri Lal Mahto, resident of Village-Pachahi, P.O. Pachahi, P.S. Madhepur, District-Madhubani.

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Home Affairs Government of India, New Delhi
2. The Secretary, Ministry of Home Affairs, Government of India, New Delhi.
3. The Under Secretary, Ministry of Home Affairs Government of India, Freedom Fighter Division, Lok Nayak Bhawan, Khan Market, New Delhi.
4. The Joint Secretary, Minister of Home Affairs Government of India, Freedom Fighters Division Lok Nayak Bhawan Khan Market, New Delhi.
5. The Deputy Secretary, Ministry of Home Affairs Government of India, Freedom Fighters Division, Lok Nayak Bhawan, Khan Market, New Delhi.
6. The State of Bihar through the Director-cum-Deputy Secretary, Home (Special) Department, Government of Bihar, Patna
7. The Director-cum-Deputy Secretary, Home (Special) Department, Government of Bihar, Patna
8. The Under Secretary, Home (Special) Department of Government of Bihar, Patna
9. The District Magistrate-cum-Collector, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harendra Pratap Singh,
Mrs. Priyanka Singh, Advocates

For the Union of India: Mr. Awadesh Kumar pandey,
Mr. Ravinder Kumar Shama,

For the State : Mr. Sunil Kumar Ravi, AC to AAG III

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-06-2015

Heard the parties.

2. In the present writ petition the petitioner is challenging the order dated 23.9.1999 (Annexure-1) issued by the Under Secretary to the Government of India, by which the claim of the petitioner for Swatantra Sainik Samman Pension has been rejected on the basis of the report of the District Magistrate as

well as father's name in the order sheet of G.R. No.846/42 has not been mentioned and as such the ascertainment of his parentage is impossible.

3. Learned counsel for the petitioner submits that petitioner was involved in the independence movement and remained absconding from August, 1942 to 21.5.1946 which is apparent from report of the Government of Bihar (Annexure-2) and the same is corroborated from the order sheet of Ist Class Magistrate, Madhubani dated 21.5.1946 from which it appears that on the basis of the application filed by C.S.I. the case was withdrawn.

4. Petitioner has claimed for entitlement of pension which was rejected by the Union of India vide order dated 28th March, 1994 (Annexure-12) was subject matter of the writ petition vide C.W.J.C. No. 4852 of 1998 and this Court quashed the order dated 28.3.1994 with a direction to the respondent concerned to consider the claim of the petitioner afresh.

5. In fresh consideration the authority concerned placed reliance on the verification report of the District Magistrate including non-ascertainment of parentage name in G.R. No.846/42.



6. It appears from the impugned order that the District Magistrate, Madhubani has reported that G.R. No.846/42 does not figure in the list of cases disposed by Shri S.S. Prasad, Magistrate, Madhubani. Further the issue of the copy could not be verified as issue register for the period 1957 was already destroyed as per rules. Two documents show that a proceeding vide G.R. No.846/42 was initiated and later on it was withdrawn on the petition filed by C.S.I. and no where the State has disputed the authenticity of Annexure-2 i.e. the recommendation as well as the order dated 21.5.1946. So far his parentage is concerned it appears from Annexure-2 that the State Government after verification of his name vis-à-vis his father's name has recommended for the entitlement of Swatantra Sainik Samman Pension.

7. In such view of the matter the reasons assigned by the Under Secretary, Government of India is misconstrued and misplaced rejection of the claim of the petitioner and accordingly the same is quashed. The Central Government is directed to consider the case of the petitioner afresh in accordance with law and pass a reasoned order within a period of six months from the date of receipt/production of a copy of this order. The State Government is directed to make



verification and in turn on the basis of the fresh verification the Union of India would pass a reasoned order in accordance with law. The State Government will be at liberty to call upon the petitioner and ask him for furnishing of any material for the purposes of verification for his entitlement of Swatantra Sainik Samman pension.

8. Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

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