

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7136 of 2004

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Ram Dutt Yadav, son of Bhulan Gope, resident of village-Dhanraj Chapra, P.O.-
Saidabad, Police Station – Rani Tala Kanpa, District-Patna, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Government of Bihar, Secretariat,
Patna.
2. The Chairman, Freedom Fighter Advisory Committee, Patna.
3. The Joint Secretary Incharge Freedom Fighter Division, Department of Home,
Government of Bihar, Patna.
4. Mr.J.C.Ban the Under Secretary, Freedom Fighter Division, Ministry of Home
Affairs, Lok Nayak Bhawan, Khan Market, New Delhi.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajib Ranjan Jha Mr. Binay Kumar Pandey
For the Respondent nos.1to3:	:	Mr.Ravi Bhardwaj, AC to GA-5
For the Respondent no.4	:	Mr.Awadhesh Kumar Pandey, Sr.C.G.C. Mr.Ravindra Kumar Sharma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 14-07-2015

The petitioner has approached this Court in the present proceeding filed under Article 226 of the Constitution of India assailing the validity and correctness of the order/communication dated 13th October, 2003 issued under the signature of the Under Secretary, Ministry of Home Affairs, Government of India, as contained in Annexure-7 to the writ petition, whereby the freedom fighter pension granted to the petitioner with effect from 31.12.1997 has been cancelled and it has further been directed to recover the amount already drawn by him till that date.

Learned counsel appearing on behalf of the petitioner



submits that the petitioner is at the fag end of his life and he is more than 90 years of age. According to him, the petitioner participated in the Quit India Movement in the year 1942 for independence of our Country and in view of his participation in the aforesaid freedom movement and in the light of the policy decision of the Central Government for grant of freedom fighter pension to such persons, the petitioner had applied for grant of freedom fighter pension, which was thoroughly examined and, on being satisfied about his valid claim, by the letter dated 27.05.1998 of the Ministry of Home Affairs, Government of India, freedom fighter pension was sanctioned to him at the rate of Rs.3,000/- per month with effect from 31.12.1997. It is contended that the grounds indicated in the impugned order for cancellation of the freedom fighter pension to the petitioner are not substantiated on the basis of the materials available on record and it is, therefore, liable to be set aside by this Court. It is also contended that the order for recovery of the amount already drawn by the petitioner at this age of the petitioner will be against the law of equity since the money drawn by him has already been spent by him long ago and he is, now, not in a position to return the said money.

Learned AC to GA-5 appearing on behalf of the respondents, by referring to the averments made in the separate counter affidavits filed on behalf of the respondent no. 3 as also 4 submits that, though the petitioner was sanctioned freedom fighter pension with effect from 31.12.1997, but subsequently, in view of the issues raised in a PIL vide CWJC No.1638 of 2001 before this Court and in view of the different orders passed in that proceeding, the case of the petitioner vis-à-vis other persons was re-examined, whereafter it was found that the petitioner does not fulfill the requisite condition for grant of freedom fighter pension. It is also pointed out that before



taking final decision in the matter a show cause notice was issued to the petitioner, whereafter he filed his show cause and on examination of the entire materials it was decided to cancel his freedom fighter pension on three grounds indicated in the impugned order/communication. According to the learned State counsel, in the factual matrix of the case, the impugned order/communication is fit to be affirmed by this Court.

After having heard the parties and on consideration of the materials available on record, this Court finds that the freedom fighter pension, sanctioned to the petitioner with effect from 31.12.1997, was cancelled for three reasons indicated in the impugned order/communication. Even if it is assumed that some of the grounds indicated in the impugned order/communication are not substantiated on the basis of the materials produced by the petitioner, but even one of the grounds was sufficient for cancellation of the freedom fighter pension sanctioned to him. Though, learned counsel appearing on behalf of the petitioner argued the matter at some length, but he has not been able to dislodge all the findings recorded in the impugned order for cancellation of the freedom fighter pension of the petitioner.

In above view of the matter, this Court does not feel persuaded to interfere with the impugned order/communication dated 13th October, 2003 (Annexure-7), so far it has cancelled the freedom fighter pension of the petitioner. However, for the reasons that the petitioner is at the fag end of his life and he is more than 90 years of age, this Court is inclined to interfere with that part of the impugned order/communication whereby a direction has been issued for recovery of freedom fighter pension already drawn by the petitioner. Therefore, applying the principles of equity and fair play this Court directs that the respondents shall not recover the freedom fighter

pension already drawn by the petitioner.

In the result, the writ petition stands partly allowed only to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

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