

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14881 of 2010

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Sugawati Devi W/O Late Badair Pandit, R/O Ward No.12, Town & Distt.- Supaul
.... Petitioner/s

Versus

1. The Union of India through Ministry of Home Affair (Freedom Fighter Division)
Govt. of India, Lok Nayak Bhawan, Khan Market, New Delhi
2. Under Secretary, Ministry of Home Affair (Freedom Fighter Division), Govt. of
India, Khan Market, Lok Nayak Bhawan, New Delhi
3. Deputy Secretary, Govt. of Bihar, Home (Special) Department, Patna
4. Collector, Saharsa
5. Treasury Officer, Saharsa
6. State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.Parasmani, Advocate

For the Respondent Nos. 1 & 2 : Mr. Sanjay Kumar, ASG
Mr.Manoj Kumar Singh, CGC

For the Respondent Nos. 3 to 6 : Mr.Shailendra Kumar Singh, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 19-03-2015

Heard the parties.

2. The matter at issue is cancellation of freedom fighter pension to one Badair Pandit, the deceased husband of the present petitioner.

3. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order/communication dated 4th June, 2010 (Annexure-7) issued under the signature of the respondent no.2 addressed to aforesaid Badair Pandit, whereby the application filed by aforesaid Badair Pandit on 12.10.2009 for restoration of freedom fighter pension to him, which was cancelled way back on 01.11.1995, has been rejected. The petitioner has further prayed for a direction for restoration of aforesaid freedom fighter pension to her as she is the widow of aforesaid Badair Pandit.



4. It is not in dispute that the freedom fighter pension was sanctioned in favour of the aforesaid Badair Pandit by order/letter dated 18.06.1987 issued by the Ministry of Home Affairs, Government of India. It is also not in dispute that subsequently the matter was enquired into by the CBI, and the document, on which the claim of the freedom fighter pension of aforesaid Badair Pandit was allowed, was found to be forged document. In view of the aforesaid finding of the CBI, pension sanctioned to aforesaid Badair Pandit was suspended vide letter dated 23.05.1995 calling upon him to show cause. Aforesaid Badair Pandit accordingly submitted his show cause, but finally the freedom fighter pension sanctioned in favour of aforesaid Badair Pandit was cancelled by letter/order dated 01.11.1995, which has been brought on the record by the respondent nos. 1 and 2 in their counter affidavit as Annexure-A/4. Indisputably, freedom fighter pension was not being paid to aforesaid Badair Pandit after May, 1995. Now, it is also not in dispute that aforesaid Badair Pandit has died on 29.03.2010. Hence, his widow has filed the present writ petition.

5. Learned counsel appearing on behalf of the petitioner submits that the order dated 01.11.1995 cancelling the freedom fighter pension of aforesaid Badair Pandit was never communicated to him. It is further submitted that the reasons recorded in the order as contained in Annexure-A/4 for cancelling the freedom fighter pension are not sustainable. According to him, the CBI has not recorded a categorical finding that the document furnished by aforesaid Badair Pandit for grant of freedom fighter pension was a forged document. On these grounds besides others, he submits that the impugned order/communication (Annexure-7) is liable to be set aside by this Court and the freedom fighter pension in favour of the petitioner is fit

to be restored.

6. The matter has been contested by the respondents. A detailed counter affidavit has been filed on behalf of the respondent nos. 1 and 2 controverting the claims of the petitioner. The report submitted by the CBI, order of suspension of freedom fighter pension and order of cancellation of freedom fighter pension in the year 1995 have all been brought on record by way of annexures.

7. As noticed above, aforesaid Badair Pandit was not receiving freedom fighter pension after May, 1995. The aforesaid Badair Pandit had approached this Court in CWJC No.7943 of 1999 against the order of suspension and subsequent cancellation of freedom fighter pension, after delay of four years, but the aforesaid writ petition was dismissed for want of prosecution. The aforesaid Badair Pandit filed MJC No.2686 of 2003 for restoration of the aforesaid writ petition, which was disposed of by order dated 16.04.2004 with a liberty to file a fresh writ petition in the same subject matter. A fresh writ petition Vide CWJC No. 2937 of 2005 was filed by the aforesaid Badair Pandit, which was disposed of by order dated 31.01.2009 (Annexure-4) with a liberty to file his representation. In the light of the liberty granted by this Court, the husband of the petitioner filed a representation for restoration of his freedom fighter pension, which was ultimately rejected by the impugned order/letter dated 04.06.2010 (Annexure-7).

8. After having heard the parties and on consideration of the materials available on the records, this Court finds that the very basis of claim of freedom fighter pension to Badair Pandit is under serious dispute. As per finding of the CBI, the document, on which freedom fighter pension of aforesaid Badair Pandit was allowed, is forged and fabricated one. Admittedly, the original recipient of the

freedom fighter pension namely, Badair Pandit is now dead. The freedom fighter pension granted to aforesaid Badair Pandit was cancelled way back in the year 1995. The claim of the petitioner for revival of the aforesaid freedom fighter pension is based on a disputed question of fact.

9. Hence, the impugned order/communication dated 4th June, 2010 (Annexure-7) issued by the respondent no.2 rejecting the claim of the aforesaid recipient to restore the freedom Fighter Pension to him cannot be legally faulted.

10. Now, after about 20 years from the date of cancellation of freedom fighter pension, this Court does not find any good ground to issue any direction for restoration of aforesaid freedom fighter pension in favour of the present petitioner, who is the widow of the original recipient. Consequently, the writ petition has to fail and is, accordingly, dismissed, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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