

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15778 of 2011

=====

Ramjhari Devi W/O Late Mahtab Lal Resident Of Village-Tarachak, P.S.-
Danapur, District-Patna Petitioner

Versus

1. The Union Of India Through Department Of Home (Freedom Fighter Wing), Lok Nayak Bhawan, Khan Market, New Delhi.
 2. The Under Secretary, Department Of Home (Freedom Fighter Wing), Lok Nayak Bhawan, Khan Market, New Delhi.
 3. The State Of Bihar Through Chief Secretary, Govt.Of Bihar.
 4. The Secretary, Home (Special) Department, Bihar, Patna.
 5. The Deputy Secretary, Home (Special) Department, Bihar, Patna.
 6. The Director-Cum-Deputy Secretary, Department Of Home (Special), Bihar, Patna. Respondents
- =====

Appearance :

For the Petitioner : Mr. Prabhu Nath Pathak, Advocate

For the UOI : Mr. Awadesh Kr.Pandey & R.K.Sharma, Advocate

For the State Mr Dhurjati Kr Prasad GP7

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 03-08-2015 Heard learned counsel for the petitioner, the Union of

India and the State.

The petitioner prays for grant of arrears of freedom fighter pension with effect from 1.8.1980 to 23.8.1996 and family freedom fighter pension with effect from 24.8.1996 onwards.

Petitioner's husband Mahtab Lal was a freedom fighter honoured with "Tamrapatra" by the then Prime Minister of India Smt.Indira Gandhi on 15.8.1972. He was also a Lower Division Clerk in the Central Excise and Customs Department, Patna and retired from service on 30.11.1982.

Petitioner's case is that her husband was given



freedom fighters pension up to 20.3.1980. However, the same was stopped as his annual income exceeded upper limit of Rs.5000/- for being eligible for pension. The Home (Special) Department, Government of Bihar in 1982 on examination of the record recommended for grant of freedom fighter pension to Mahtab Lal with effect from 1.8.1980 to the Deputy Secretary, Government of India, Ministry of Home, Freedom Fighter Wing, New Delhi. The Government also recommended to adjust the earlier pension received by her from 1972 against future pension. The matter remained pending for long and petitioners' husband died in 1996.

Counter affidavit has been filed by respondents. In paragraph 14, they state that the Ministry of Home Affairs, New Delhi vide letter no. CZ/114/P/15472/73/FF (Bihar) dated 5.1.2006 cancelled the pension sanctioned to late Mahtab Lal and ordered for full recovery of pension drawn by him during his life time from his wife.

The petitioner is widow of Mahtab Lal who was a freedom fighter and was granted and given freedom fighters pension which was stopped in 1980 on the ground that his annual income exceeded the maximum annual limit of Rs.5000/-. Petitioner made a prayer for waiving off the same



keeping in view the fact that he remained in custody during freedom movement. The State Government recommended the matter favourably to the Union Government in 1982. The Union Government did not pass final order and Mahtab Lal died in 1996. Now, in 2006 the Union Government while cancelling petitioner's claim, ordered for recovery of pension granted to her late husband.

In my view, the Union Government ought to have passed final order one way or the other on the recommendation of the State Government in 1982 during life time of Mahtab Lal himself. After about ten years of death of Mahtab Lal in 1996, the Government's decision to recover the pension amount now obviously from his widow does not seem fair and reasonable.

In the result, the order dated 5.1.2006 for full recovery of pension drawn by Mahtab Lal during his life time is set aside. The petitioner may challenge the part of order by which freedom fighter's pension is cancelled, before appropriate forum.

The writ petition is thus disposed of with aforesaid directions.

(Samarendra Pratap Singh, J)

Shashi.

U			
---	--	--	--

