

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21526 of 2011

=====

Ambika Singh S/O Late Ganeshi Singh R/O Village- Kochhasa, P.S.- Karpi,
P.O.- Imamganj, District- Arwal Petitioner

Versus

1. The State Of Bihar Through The Commissioner Cum Secretary Home (Special) Department, Bihar, Patna
 2. The Under Secretary Home (Special) Department, Freedom Fighter Cell, Bihar, Patna
 3. The Union Of India Through The Home Secretary, Govt. Of India, New Delhi
 4. The Under Secretary Ministry Of Home Affairs, Freedom Fighter (R) Division Cz Section, 1st Floor, Lok Nayak Bhawan, Khan Market, New Delhi – 110003 Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate
For the Respondent/s : Mr. GP Ojha, GP19 and Praveen Kr, Advocate
For the UOI Mr. Awadesh Kr. Pandey, SC

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 12-08-2015 Heard learned counsel for the parties.

The petitioner was earlier granted freedom fighter pension in the year 1987. However the same was cancelled by the Union Government vide letter dated 29.4.2011 (Annexure 9) on the ground that he was found to be of tender age i.e. about 11 years in 1942 in view Medical Board's report of year 1999 and 2001, after giving maximum benefit of age. Some more grounds were mentioned for cancellation of the pension. The petitioner did not produce any primary evidence by way of Court order/Government's orders proclaiming the applicant as (i) a proclaimed offender or (ii) one on whom an award for arrest/head was announced; or (iii) one whose detention order

was issued but not served. As per the impugned order cancelling pension, even the personal knowledge Certificate could not be verified as the certifier of the petitioner has already expired. Therefore the genuineness of the certificate is not established.

The petitioner submits that merely because one was of minor age at the time of independence movement cannot be a criteria for rejecting the pension, in view of order of this court, in LPA No. 63 of 2000, wherein the Division bench observed that in absence of Rule or provision under particular scheme an application of freedom fighter pension cannot be cancelled only on the ground that the applicant was aged 10 years. He submits that only on 5.10.2009 the Union Government communicated the decision that henceforth claimants above 15 years of age at time of participation in freedom movement would be eligible for sanction of Samman pension. He submits that the decision would not be applicable in his case as he was granted pension as early as in the year 1987.

The petitioner contends that otherwise also the standard of proof in such cases would not be the same as required in criminal or civil cases.

It appears that a Division bench of this Court *suo motu* on basis of newspaper reports regarding irregularities

committed in grant of freedom fighter pension, directed to make wholesome enquiry in the matter. In course of enquiry, the petitioner's case was also scanned and it transpired that the petitioner was not only a minor, he also gave a wrong statement regarding his age in a case before Munsif that in 1963 he was of 22 years. As per his statement, as per which his year of birth would be 1943.

In view of the forgoing reasons, I do not find any infirmity in the impugned order rejecting his claim. However, in the facts and circumstances of the case, there would be no recovery of amount already received by the petitioner.

With observations aforesaid, the writ petition is dismissed.

(Samarendra Pratap Singh, J)

Shashi.

U			
---	--	--	--