

**IN THE HIGH COURT OF TRIPURA  
AGARTALA**

**W.P.(C) No. 512 of 2014**

**Shri Premananda Das,**  
son of late Rajendra Kr. Das, resident  
of village – Nidebi, Santipara, P.O.  
Kumarghat, District – Unakoti,  
Tripura

..... **Petitioner**

**- V e r s u s -**

- 1. The Union of India,**  
represented by the Secretary,  
Home Affairs Department (Griha  
Mantralaya), New Delhi
- 2. The Secretary,**  
Ministry of Defence, Government of  
Tripura, New Delhi
- 3. The Chief Secretary,**  
General Political (Administration)  
Department, Government of Tripura,  
Agartala

..... **Respondents**

**BEFORE  
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioner : Mr. D.C. Roy, Advocate.  
For the respondents No.1 & 2: Mr. B. Majumder, C.G.C.  
For the respondent No.3 : Mr. S. Chakraborty, Addl. G.A.

Date of delivery : **16.09.2015**  
of Judgment & Order

Whether fit for reporting : 

|            |           |
|------------|-----------|
| <b>Yes</b> | <b>No</b> |
|            | √         |

**JUDGMENT & ORDER (ORAL)**

Heard Mr. D.C Roy, learned counsel appearing for the  
petitioner as well as Mr. B. Majumder, learned C.G.C. appearing

for the respondents No.1 and 2 and Mr. S. Chakraborty, learned Addl. G.A. appearing for the respondent No.3.

**[2]** The petitioner, who claimed to be a freedom fighter, applied for *Swatantrata Sainik Samman Pension* under the *Swatantrata Sainik Samman Pension Scheme, 1980*, adopted by the Ministry of Home Affairs, Government of India for benefit of the persons who participated in the freedom movement and suffered imprisonment or were forced to remain underground under the order of proclamation or order of arrest. But his application for grant of *Swatantrata Sainik Samman Pension* was not recommended by the State Level Advisory Committee by virtue of their resolution adopted in the meeting of the Freedom Fighters Pension Review Committee, Tripura held on 08.11.2007, Annexure-R/1 to the counter affidavit, filed by the respondent No.3. While denying the recommendation, the following has been observed by the said committee:

**"The Committee has carefully examined the case and opined that there was no movement from first part of 1943 to 1947. There was no reason of going in underground. No copy of warrant of arrest is produced. So the Committee has not recommended the case."**

**[3]** Being aggrieved by that denial, the petitioner has filed this writ petition for intervention and issuance of writ of mandamus directing the Ministry of Home Affairs, Government of India for granting him *Swatantrata Sainik Samman Pension* under the said Scheme of 1980.

[4] Mr. D.C. Roy, learned counsel appearing for the petitioner has submitted that two eminent freedom fighters issued certificates stating that the petitioner was forced to go underground on apprehension of arrest for his participation in the Quit India Movement. One certificate was issued by Sri Jitendra Nath Maitra on 16.11.1981. He was a holder of *Swatantrata Sainik Samman Pension*. By that certificate, Sri Maitra has stated that the petitioner participated in the Quit India Movement and some other programmes of the Indian National Congress. He was in the forefront of India's freedom movement at that point of time. For participation in the Quit India Movement many workers of Congress were arrested and sent to the jail. The petitioner was about to be arrested but he escaped and went underground for the first part of September, 1942 and thereafter, for 4½ years he spent unnoticed in the princely State of Tripura. By the end of August, 1947 i.e. after India won independence, the petitioner returned to his place of origin. Said Jitendra Nath Maitra originated from village- Chandpur, under Police Station – Moulavibazar, District – Sylhet, now under Bangladesh.

The other certificate has been issued by one Bhupati Chakraborty, who has originated from District –Sylhet, now under Bangladesh. He suffered various terms of imprisonment and he had been granted *Swatantrata Sainik Samman Pension* by the Government of India. He has stated that the petitioner is a bona-fide freedom fighter who remained underground for more than

6(six) months from the period from 1942 to 1947 and he was a proclaimed offender.

**[5]** On the basis of these two certificates, as it appears, the petitioner applied for granting *Swatantrata Sainik Samman Pension*. Mr. D.C. Roy, learned counsel appearing for the petitioner has fairly submitted that no proclamation order in support of that the petitioner was facing an order of arrest or that he was being searched against a particular case has been filed by the petitioner. Even no specific reference could be made in respect of which case he was wanted by the British Police at the relevant point of time.

**[6]** From the other side, Mr. B. Majumder, learned C.G.C. appearing for the respondents No.1 and 2 has categorically submitted, having referred to the provisions of *Swatantrata Sainik Samman Pension Scheme, 1980*, that for grant of *Swatantrata Sainik Samman Pension*, a person had to be, on account of participation in the freedom struggle, either Interned in his home or externed from his district for a minimum period of 6 months but mere externment would not suffice unless the order of externment issued by the competent authority is produced from the official records. However, he has submitted that Clause 2.4 of the said Scheme stipulates as under:

**'In absence of the official records, NARC from the State Govt. UT/ Administration concerned, along with a certificate from prominent freedom fighter, who had proven jail sufferings of at least two years; who belonged to the**

**same administrative unit and whose area of operation was same as that of the applicant, should be furnished.'**

Mr. Majumder, learned C.G.C. has categorically submitted that the petitioner failed to submit such records. Even in the certificates the indicative details are not available. He has further submitted that all the persons who participated in the freedom movement in some way or the other are not eligible for *Swatantrata Sainik Samman Pension*. The minimum requirement that has been delineated in the said Scheme of 1980 has to be conformed to and unless such requirement is conformed to, no pension under the Scheme of 1980 can be granted for his participation in the freedom movement. In support of his contention, he has placed reliance on the decision of the apex court in **Union of India vs. K. Indrasena Reddy & Anr.**, reported in **AIR 2007 SC 2484** where the apex court while dealing with a situation, almost identical to this case, has observed as under:

**"10. A person is entitled to the benefit of the Samman Pension Scheme provided he fulfills the criteria laid down therein. One of the criteria laid in the said scheme, as noticed hereinbefore, was that the concerned person on account of his participation in freedom struggle, had to remain underground for more than six months. However, the same would be subject to the conditions laid down therein, namely, (i) he has to be a proclaimed offender; or (ii) he is one on whom an award for arrest was announced; or (iii) he is one for whose detention, an order of arrest was issued but not served.**

**11. If only an order of detention was issued, the same by itself may not lead to a conclusion that the first respondent had to remain underground for more than six months, unless**

**he proves one or the other requisite condition precedents therefore mentioned in the scheme.**

**12. The appropriate authority as also the learned Single Judge had clearly come to the conclusion that the first respondent was neither declared a proclaimed offender nor an award for his arrest was announced or an order of detention had been issued but could not be served. The Division Bench of the High Court, therefore, in our opinion committed a manifest error in passing the impugned judgment in so far as it proceeded on the basis that respondent No. 1 herein was entitled to grant of pension under the Samman Pension Scheme. only because an order of detention had been issued against him."**

Observing thus, the apex court has quashed the order of the Division Bench as referred in the judgment.

**[7]** Mr. S. Chakraborty, learned Addl. G.A. appearing for the respondent No.3 has stated that the Ministry of Home Affairs, Government of India had instructed to constitute a committee at the State level for scrutinizing the records and to make the recommendation in the appropriate cases for grant of *Swatantrata Sainik Samman Pension*. On due scrutiny, it was found that the relevant records were not produced by the petitioner. Not even did he produce the relevant certificates from two eminent freedom fighters giving the particulars showing under what circumstances he was forced to go underground. In such premises, they refused to recommend his name.

**[8]** From the further scrutiny of the records, particularly after going to the contents of the certificates issued by Sri Jatindra Nath Maitra and Sri Bhupati Chakraborty, this Court is of

the view that mere filing of those documents, will not satisfy the conditions as laid down in Clause-2.4 of *Swatantrata Sainik Samman Pension Scheme, 1980* nor did it conform to the requirement as provided under Appendix- B-II of the said scheme. The petitioner has miserably failed to show in which case he was hounded by the British police for securing his arrest nor did he mention any reference regarding the order of proclamation. The certificates of the eminent freedom fighters could not provide the relevant materials for consideration by the competent authority. Having situated thus, this court is persuaded to hold that, this writ petition is bereft of merit and does not deserve any further consideration. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs.

**JUDGE**

*Sujay*