

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 9479 OF 2012

ORDER:

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Heard learned counsel for the petitioner and learned Standing Counsel for Central Government. With the consent of both the parties, the writ petition is finally heard at the admission stage itself.

The present writ petition is filed seeking issuance of a writ of mandamus to declare the action of respondent in not granting pension to the petitioner under "Swatantra Sainik Samman Pension Scheme-1980" from the date of application i.e. from 1993 as illegal, arbitrary and violative of principles of natural justice.

The averments in the writ petition are as under:

The Government of India formulated a scheme namely "Swatantra Sainik Samman Pension Scheme, 1980" to provide financial assistance to the freedom fighters. The petitioner who claims himself to be a freedom fighter applied for grant of Swatantra Sainik Samman Pension in the year 1993 vide application No. 112/1321/93-FF (HC). It is stated that the respondent had sanctioned pension to the petitioner by issuing proceedings dated 23.08.2011 and released pension with effect from 11.07.2011. It is stated that though the application was submitted in the year 1993, pension was granted to the petitioner from 11.07.2011 onwards, which is illegal and arbitrary. It is stated that the respondent ought to have granted pension from the date of application instead of from 11.07.2011, as the delay is attributable to the respondent only. Hence, the present writ petition.

When the matter is taken up for hearing, the learned counsel for the respondent submits that the issue involved in this writ petition is no more *res integra* in view of the judgments of this Court in

W.P.No.30769 of 2012 and batch and W.P.No.5825 of 2011 and batch. It is also represented by the learned counsel for the respondent that a Division Bench of this Court also confirmed the orders passed by the Single Judge in W.P.No.30769 of 2012 and batch.

As seen from the record, the petitioner was granted pension though no conclusive evidence was produced by him with regard to he underground suffering during freedom fight as required under "Swatantra Sainik Samman Pension Scheme-1980". Under such circumstances, the issue as to whether the petitioner should be granted pension from the date of application or from the date of disposal of the application is covered by the judgment of this Court in W.P.No.30769 of 2012 and batch wherein this Court held as under:

"The petitioners in these cases failed to produce necessary evidence as prescribed under the Swatantra Sainik Samman Pension Scheme, 1980 and the respondent on the basis of the relaxed eligibility and evidentiary requirement in relaxation of the normal procedure had accorded sanction of pension to the petitioners. Once the petitioners are found to have failed in producing necessary evidence before the respondent, it is not open to them to attribute the delay in sanction of pension to them and more particularly from the date of their applications.

Keeping the above avowed object in mind and considering the cases of the petitioners on the touchstone of the law laid in the judgment referred to above, this Court is of the view that there is no arbitrariness or illegality in passing the impugned sanction orders granting pension under the Swatantra Sainik Samman Pension Scheme from the date of the order and not from the date of their applications."

In view of the judgment referred to above, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ

Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

13.07.2015

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