

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision : October 07, 2015*

+ **LPA 130/2014**

UNION OF INDIA Appellant

Represented by: Mr.Amit Mahajan, Adv.

versus

PRATAPANI MUTTAIAH Respondent

Represented by: Mr.Jayant Bhatt, Adv.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. The respondent sought grant of pension under the Swatantrata Sainik Samman Pension Scheme, (in short the SSS Pension Scheme) which was allowed by the impugned order. Case of respondent was that he participated in the Hyderabad Freedom Struggle against Nizam Government which was supported by British Rule. Respondent had applied for grant of SSS Pension on November 19, 1987 and the case of respondent was recommended by the Hyderabad Special Screening Committee (in short the HSSC) for grant of pension. Since the HSSC found respondent entitled to grant of SSS Pension, Union of India could not have rejected the application.

2. The learned Single Judge in view of the approval granted by the HSSC held that the respondent had complied with all the terms and conditions of the claim and was thus entitled to arrears of pension from the date of making of the application with interest @ 6% per annum till the time

arrears of pension are granted subject of course to the order dated September 24, 1997 in W.P.(C) No.4420/1997. Hence the present appeal by the Union of India.

3. A brief background. Government of India introduced the Freedom Fighters' Pension Scheme, 1972 on August 15, 1972 which was subsequently named as Swatantrata Sainik Samman Pension Scheme in the year 1980. Under the SSS Pension Scheme inter alia persons who had suffered a minimum imprisonment of six months on account of participation in freedom struggle or were declared proclaimed offender or had an award for their arrest announced or could not be detained having gone underground pursuant to detention order were eligible under the Scheme. For a person claiming pension for the reason that he had to go underground, he was required to furnish the following documents:

“(a) Documentary evidence by way of Court's/ Govt.'s orders proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention.

(b) In case records of the relevant period are not available, secondary evidence in the form of a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail suffering of a minimum two years and who happened to be from the same administrative unit could be considered provided the State Government/ Union Territory Administration concerned, after due verification of the claim and its genuineness, certifies that documentary evidences from the official records in support of the claimed sufferings were not available.”

4. Since the freedom fighters were finding it difficult to produce the necessary documentary evidence a Special Screening Committee under the chairmanship of Shri Govind Bhai Shroff was set up which started scrutinising applications in July 1985. As many as 7000 persons were

recommended by the Shroff Committee. The Shroff Committee prepared a list of 98 border camps (including 41 in Andhra Pradesh, 37 in Maharashtra and 20 in Karnataka) along with the name of respective camp-in-charge and thus the said 98 border camps were recognized by the Government of India for consideration of claims. The subsequent committee re-constituted under the chairmanship of Shri Ch. Rajeshwara Rao recognized 18 more border camps in the year 2005 which were also included. Since series of complaints were received and doubts were cast on the recommendations by the HSSC resulting in filing of W.P.(C) No.4420/1997 and 5335/1999 before the High Court of Andhra Pradesh at Hyderabad, interim order staying sanction of pension on the basis of recommendations of the HSSC was passed. Subsequently all the cases recommended by the Rajeshwar Rao Committee were sent back to the State Government for verification and guidelines were issued with a view to adopt uniform procedure and revised format of PKC/ Border Camp certificate/ State Government verification report were also enclosed with the said guidelines.

5. Learned counsel for UOI claims that the Supreme Court has already upheld policy vide its order dated May 29, 2012 in Civil Appeal No.4684/2006 in the matter of Deputy Secretary to the Government of India Vs. Pilli Ramachandraiah wherein it was held that recommendations made by the State Government are not binding on the Central Government and it is open to the Central Government to make further enquiries if so advised. Thus the stand of Union of India is that the claim under the SSS Pension Scheme could be considered by the Central Government only when the claim were duly verified and recommended by the State Government/ Union Territory administration concerned as per the revised policy and the learned

Single Judge merely on the basis of recommendation of the HSSC directed grant of pension to the respondent.

6. The claim of the respondent was rejected by the appellant/ Union of India vide its order dated July 28, 2003 on the following grounds:

“(i) The examination of your application and documents have revealed that your age as stated by you in your application was years in the year. This implies that your present age is about years. On the other hand, the State Government has verified your age to be years in the year on the basis of . According to this, your present age comes to about years. Therefore, there is a difference of years between the age stated in your application and that verified by the State Government. On account of such wide discrepancy between the age stated by you and the age verified by the State Government, it is not possible to ascertain your correct age in March, 1947.

(ii) The name of the border camp mentioned in your application/ certified by Camp Incharge does not appear in the list of border camps certified by the erstwhile Hyderabad Special Screening Committee.

(iii) There is a contradiction between your claim of suffering with regard to nature of suffering vis-a-vis State Government's verification report.”

7. Learned counsel for the appellant has also placed on record copy of the order dated April 26, 1999 whereby W.P.(C) No.4420/1997 and W.P.(C) No.22868/1998 were disposed of with the directions as to the manner in which the applications were required to be scrutinised by the Government of India. It was held that the Government could lay down such norms and guidelines as it may consider fit and proper. The order also noted that the Union of India if it considers necessary may issue appropriate directions to the State Government and all the concerned for verification of the age of each of the applicant and if necessary refer the applicant to the medical

Board.

8. It is evident that the learned Single Judge while issuing directions failed to consider the subsequent events and the order of the Supreme Court dated September 29, 2012 in *Pilli Ramachandraiah (supra)*.

9. In view of the anomalies having been found in the recommendations of HSSC it would be thus fair and appropriate to pass directions to the State Government of Andhra Pradesh to reconsider the application of Shri Pratapani Muttaiah, the respondent herein dated November 19, 1997 within a period of four months from the date he submits a copy of the application and other documents and communicate its decision to the Union of India within the said period where after the Union of India would pass a speaking order within two months thereafter. To facilitate the early disposal respondent would submit a copy of the application along with the photocopies of the necessary documents with the competent authority in the State of Andhra Pradesh. With these directions the appeal is disposed of.

(MUKTA GUPTA)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

OCTOBER 07, 2015
‘ga’