

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1878 of 2012

IN

Civil Writ Jurisdiction Case No. 16898 of 2011

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Akhilesh Narayan Singh @ Akhilesh Narayan Sinha, Son of Late Ram Dahin Singh,
Resident of Village Bhaisamara, P.S. Tekari, Distt.- Gaya, At present Mohalla- New
Colony, Chhotki Delha, P.S. Gaya, Distt.- Gaya

.... Appellant

Versus

1. The State of Bihar
2. The Secretary, Home (Special) Department, Govt. of Bihar, Old Secretariat, Patna
3. The District Magistrate, Gaya
4. The Deputy Collector, General Branch, Gaya
5. The Union of India, through the Secretary, Ministry of Home Affairs, F F R Division,
CZ Section, Lok Nayak Bhavan, Khan Market, New Delhi- 110003
6. The Under Secretary, Ministry of Home Affairs, Govt. of India, F F R Division, CZ
Section, Lok Nayak Bhavan, Khan Market, New Delhi- 110003

.... Respondents

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Appearance :

For the Appellant : Mr. Nadim Seraj, Advocate.
Mr. Shailesh Kumar, Advocate.

For the Respondents : Mr. Sanjay Kumar, A.S.G.
Mr. Kinkar Kumar, S.C. 27

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-03-2016

Heard learned counsel for the appellant and the State.

2. The challenge in the present Letters Patent Appeal is to an order dated 27th August, 2011 passed in C.W.J.C. No. 16898 of 2011, whereby the claim of the appellant for grant of Swatantrata Sainik Samman Pension on account of his alleged participation in a freedom struggle from 15th of August, 1942 to 5th of December, 1943 by remaining underground was not interfered with in the writ petition.

3. As per the appellant, his date of birth is 1st of February, 1931 and as a child of 11 years he remained underground in the stated period. It has also come on record that he joined Government service disclosing his date of birth

as 1st of February, 1934 and attained the age of superannuation after working for 36 years.

4. The appellant applied for Freedom Fighters Pension vide Annexure-3 wherein he disclosed his occupation as service. He has not disclosed that he was a State Government employee.

5. The appellant was granted Freedom Fighters Pension with effect from 6th of February, 1998 but subsequently it was stopped on 13th of October, 2000 after a show-cause notice was served upon the appellant on 4th of July, 2000. In an inquiry conducted, it was, *inter alia*, found that the appellant was eight years of age in the year 1942 and therefore, he could not have participated in the freedom struggle. It was also found that the appellant has produced duplicate copy of the Matriculation Certificate though he is in Government service and given different date of birth. The petitioner challenged such order of cancellation before this Court and another order was passed on 2nd of November, 2010 (Annexure-15). A perusal of the said order shows that the appellant has admitted that he was appointed in Bihar Government and worked for 36 years in various departments. He also stated that no age limit has been prescribed by Home Ministry for taking part in the freedom movement. It was also found that the pension was granted on account of a Personal Knowledge Certificate of Sri Madan Mohan Singh but no documentary evidence has been given in support of the fact that the appellant remained underground from 15th of August, 1942 to 5th of December, 1943. In the record produced by the appellant, case number in which the appellant was involved, date of institution, disposal, section or law under which the case was instituted has not been given. The G.R. of the year 1942 is not available. Hence, the record could not be verified. Again the said order became subject matter of challenge before this Court and the matter was sent for reconsideration. It is thereafter the order dated 3rd of June, 2011 (Annexure-19) has been passed

holding that appellant is not eligible for grant of Freedom Fighters Pension and that there is no possibility to restore the pension of the appellant.

6. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal. The scheme of Freedom Fighters Pension is not only to grant source of livelihood to the freedom fighters who participated in the freedom struggle but also to honour them. As per the Bihar Government record, his date of birth is 1st of February, 1934. Therefore, he would be only eight years of age in the year 1942 when he is said to have participated in the freedom struggle. As per his date of birth, he was born on 1st of February, 1931. In either case, he was not more than 11 years of age in the year 1942 when he is said to have gone underground for a period of 1½ years. There is no detail of the case in which he was involved in the freedom struggle and has to go underground. As a child of 11 years, when he is immature in understanding, as per Section 83 of the Indian Penal Code, it is impossible to imagine that the appellant was involved in freedom struggle from 15th of August, 1942 to 5th of December, 1943. In the absence of any evidence of his involvement in a freedom struggle and more so keeping in view his age and the fact that he was in a Government service and worked for 36 years, the claim for grant of Freedom Fighters Pension has rightly been revoked.

7. In view of the discussion above, we do not find any merit in the present appeal. The Letters Patent Appeal is thus dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

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