

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5326 of 2016

=====

Smt. Sudha Devi Wife of Late Ravi Mandal Resident of Mohalla - Pithu Daur,
Santt Gali of Sabzmarket Sultanganj, Police Station - Sultanganj, District -
Bhagalpur

.... Petitioner

Versus

1. The Union of India, through Home Secretary Ministry of Home Affairs, Freeder
Fighter Division Govt. of India New Delhi 110001
2. The Additional Secretary, Freeder Fighter Division, Ministry of Home Affairs,
Government of India, N.D.C.C. Building, Sansad Marg, New Delhi - 110001
3. The Deputy Secretary, Government of India N.D.C.C. II Building Sansad Marg,
New Delhi 110001
4. The State of Bihar, through the Chief Secretary (Home Social), Government of
Bihar, Patna
5. The District Magistrate, Bhagalpur
6. The Block Development, Sultanganj, Sultanganj, Sultanganj, Bhagalpur

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Adv.

For the Respondent State: Mrs. Kumari Amrita, GP3

For respondent no.1 : Mrs. Kanak Verma, CGC

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-11-2016

The prayer of the petitioner for freedom fighter pension has
been rejected by the Union of India passed on 8.1.2016 in reference to
an earlier rejection order dated 27.9.2013.

The ground assigned in the order of rejection is that the
claim is not supported with the documents confirming participation of
the petitioner in the freedom struggle. The earlier order of rejection
dated 27.9.2013 passed by the Union of India has also been placed on
record at Annexure 10 and discusses the documents which needs to
accompany an application for grant of freedom fighter pension in

confirmation of participation of the applicant in the freedom struggle.

The petitioner seeks to draw the benefit on the ground that she went underground from 1942 in connection with her participation in freedom struggle. There are two documents which are placed on record in support of such participation and while one is a judgment of the Sessions Judge, Bhagalpur in Sessions Case No. 62/1942 placed at Annexure 2, the other document is personal knowledge certificate granted by one Bhola Gope, present at Annexure 4.

Although the State has recommended the case of the petitioner vide letters dated 7.5.2013 and 21.6.2013 as well as 19.9.2013, copies of which recommendations are placed at Annexure 7, 8 and 9 respectively, the recommendation was rejected by the Union of India vide decision communicated by the Under Secretary, Govt. of India, dated 27.9.2013, a copy of which is placed at Annexure 10. The prayer was renewed by the petitioner before the State Government in its Home (Special) Department and was again recommended by the Home Department vide letter dated 16.12.2013 present at Annexure 14 and which again has been rejected by the Union of India in reference to the earlier decision dated 27.9.2013 vide letter dated 8.1.2016 impugned at Annexure 15 and the petitioner feeling aggrieved is before this Court.

I have heard learned counsel for the parties and have perused

the records.

While the Union of India has rejected the claim of the petitioner, inter alia, on the grounds that the claim of the petitioner is not in prescribed format but even if this procedural lapse is waived to test the claim of the petitioner on the basis of documents that accompanied the application, I find that the situation yet does not improve for the petitioner for two reasons, namely, (a) the judgment relied upon by the petitioner at Annexure 2 is not the certified copy of the judgment, rather is an attested copy by the Notary Public; and (b) the judgment referred to above does not confirm the participation of the accused in connection with freedom struggle.

A perusal of the judgment enclosed at Annexure 2 shows that the case was instituted, inter alia, amongst others, under section 302 of the Indian Penal Code for the murder of a Chaukidar. In the whole of the judgment which concerns 229 accused persons in the crime, there is not even a whisper that the act was carried out in connection with the freedom struggle, rather it is a plain case of murder for which the accused were tried and in absence of evidence, were acquitted. Although the judgment of this Court and the Supreme Court as regarding sufficiency of evidence to support the claim of freedom fighter pension does liberalize the requirement for testing the claim against preponderance of probability and even if the grant of

freedom fighter pension is a respectful recognition by the Government of India, to person who had taken part in the freedom struggle, it cannot partake the nature and character of charity where applicants fail to support their claim by supportive documents.

In view of the fact that the judgment of the Sessions Court does not support the claim of the petitioner as regarding her participation in the freedom struggle, the personal knowledge certificate given by Bhola Gope on its own cannot come to the aid of the petitioner. The claim of the petitioner is not of suffering imprisonment in the course of freedom struggle rather it is for having undergone underground suffering and the judgment relied upon is for a murder charge.

For the reasons discussed above, the claim raised by the petitioner cannot be upheld and in the circumstances, its rejection by the Union of India cannot be faulted with.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.12.2016
Transmission Date	NA