

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 5764 of 2013

Ramrao S/o. Govindrao Shinde
Age 84 years, Occ. Nil.
R/o. Babhali, Tq. Kalamnuri,
District Hingoli.

...PETITIONERS.

VERSUS

- 1] The State of Maharashtra
through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
- 2] Freedom Fighters' Pension
High Power Committee,
Mantralaya, Mumbai-32,
through its Secretary.
- 3] The Collector,
Parbhani.

...RESPONDENTS.

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Mr. V.S. Panpatte, Advocate, for the Petitioner

*Mr.S.M. Ganachari, Asst. Government Pleader, for
respondent no.3*

Mr. Bhushan Kulkarni, Advocate, for the Respondent nos.1 & 2.

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CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.

Date of Reserving the Judgment : 28th July, 2016.
Date of Pronouncing the Judgment: 10th August,,2016.

JUDGMENT : (PER K.K. SONAWANE, J.)

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] Petitioner has preferred the present petition for grant of benefit of Samman Pension, as contemplated under the Freedom Fighters Pension Scheme, 1972. It has been contended that the petitioner had an active participation in the Hyderabad Mukti Sangram between period 1947 to 1948. He was the underground freedom fighter and had taken part in the activities of Jungle Satyagraha, cutting the Shindi and Moha trees at village Babhali, etc. The Police warrant was also issued against the petitioner for violation of law of the Nizam Government. The petitioner remained absconded and, therefore, the police could not arrest him.

3] The Government of Maharashtra introduced Freedom Fighters Pension scheme for financial assistance to the freedom fighters. Therefore, the petitioner applied in prescribed proforma for getting the benefit of the said scheme. Petitioner submitted his application on 6.2.1989 and has appended all requisite documents, including the document of police warrant and its translated copy. However, upto this date, there was no progress in the proceedings of the petitioner for pensionary benefit under the scheme. The Government has framed the scheme to honour the persons who had participated in the Liberation Movement. Moreover, the claim of the

petitioner was placed before the Zilla Gaurav Samiti for consideration. It has been submitted that the Zilla Gaurav Samit in its meeting dated 29.11.1994, appreciated the documents of the petitioner and unanimously recommended his name for pensionary benefits. The claim of the petitioner ought to have been processed and considered in accordance with the Govt. Resolution dated 5.9.1992. But, the respondent did not consider the application of the petitioner in proper manner and relegated the proceedings back to the Collector, Parbhani for requisite compliance of the Government Resolution dated 4.7.1995. The petitioner grumbled that there is no necessity to comply with the requirement of Government Resolution dated 4.7.1995. The Full Bench of this Court in the case of ***“Tukaram Ramji Koli Vs. State of Maharashtra” reported in 1999(3) Mh.L.J. 735***, had dealt with the issue and delineated that in the claim for grant of Samman Pension if the recommendation by the Zilla Gaurav Samiti is prior to 4th July, 1995, then the claim will be governed by Government Resolution dated 5.9.1992 and not 4.7.1995. Petitioner submitted the application in prescribed proforma accompanied with the requisite documents comprising his affidavit, the age certificate, documents of police warrant alongwith its translated copy. It has been contended that the petitioner has complied with all the requisite formalities as per the Govt. Resolution dated 5.9.1992 being an underground freedom fighter in the Hyderabad Liberation Movement. There was a recommendation of the Zilla Gaurav Saimti to the petitioner for grant of pensionary benefit prior to issuance of Government Resolution dated 4.7.1995. In such circumstances, the petitioner is entitled for pensionary

benefit as per the scheme introduced by the State to honour the persons, who had participated in the Liberation Movement. Hence, petitioner seeks a declaration that he is eligible for the pensionary benefit as contemplated under the Freedom Fighters Pension Scheme, 1972.

6] In response to notice, the respondent State appeared and opposed the contentions put forth on behalf of petitioner by filing affidavit in reply on record. It has been submitted that name of the petitioner was recommended in the meeting of the Parbhani District Freedom Fighter Gaurav Samiti dated 29.11.1994. However, the proposal of the petitioner has been returned back for non compliance of the procedural formalities as prescribed under the Govt. Resolution dated 4.7.1995. Thereafter, the area of Parbhani District was split up and new Hingoli District was constituted and, Hingoli was declared as new Collectorate since 1.5.1995. The formalities of division consumed some time for the procedural formalities and collecting the records of the relevant files. Lateron, there was a meeting dated 15.1.2001 of the Zilla Gaurav Samiti, Hingoli, in which name of the petitiioenr was not recommended as he failed to comply with the criteria laid down in the Government Resolution dated 4.7.1995. Therefore, it has been submitted that the petitioner is not entitled for any benefit as claimed in this petition. Hence, it is prayed to dismiss the petition.

7] We have heard the arguments canvassed on behalf of both sides at length. We have gone through the relevant documents produced on

record. Learned Counsel Shri Panpatte laid much emphasis on the circumstance that petitioner has applied for the pensionary benefit in the year 1989. He had produced relevant documents required for the same. Thereafter, the name of the petitioner was also recommended by the Zilla Gaurav Samiti, Parbhani, in its meeting dated 29.11.1994. However, respondent was found reluctant to grant pensionary benefit to the petitioner. The learned Counsel Shri Panpatte relied upon the exposition in the case of ***“Tukaram Ramji Koli” (cited supra)*** and requested to allow the petition for grant of pensionary benefits to the petitioner.

8] It is worthy to note that the Samman Pension scheme came to be introduced by the Government of Maharashtra to honour and where it was necessary to mitigate the sufferings of those, who had given their all for the country in the hour of its need. Name of the scheme itself is, “Swatantrya Sainik Samman Pension Scheme” and it is meant to benefit the freedom fighters. The Apex Court, in the matter of ***“Mukundlal Bhandari vs. Union of India” reported in AIR 1993 SC 2127***, has observed that the scheme was not to reward or compensate the sacrifices made in the freedom movement. But, the object of the scheme is to honour the Freedom Fighters by providing some monetary assistance in hour of need to them. It would be contrary to the spirit to convert the scheme into some kind of programme of compensation and the scheme should retain its high objective with which it was motivated.

9] In view of the aforesaid object and purpose of the scheme, what is necessary into the matter in hand is to determine the factum of eligibility of the petitioner to award the benefit of the scheme. The proof of involvement/participation of the petitioner in the Liberation Movement would be the sole criteria to ascertain the eligibility of the petitioner for benefit of the scheme. Admittedly, pensionary benefits is required to be sanctioned only after the production of requisite proof of being underground freedom fighter. It is not in dispute that the State Government has issued various Government Resolutions time and again laying down the guidelines to scrutinize the application for grant of Freedom Fighters Pension to various categories of the freedom fighters. Accordingly, on 5.9.1992, the Government issued a Government Resolution regarding determination of age in case of freedom fighters and the minimum age of the applicant is required to be 16 years. Moreover, it has been submitted that there should be a recommendation from the Zilla Garav Samiti on the application made for grant of Freedom Fighters Pension to the underground freedom fighters as well as the application should be accompanied with the recommendation letter of the two freedom fighters of the concerned district who are knowing the applicant since the period of freedom movement. Thereafter, the State has issued another Government Resolution on 4.7.1995 and certain guidelines came to be added for scrutiny of the applications to grant pensionary benefit.

10] In the instant case, parties are ad-idem to the fact that the

petitioner applied for pensionary benefit in the month of February 1989. Thereafter, his application was processed and placed before the Zilla Gaurav Samiti, Parbhani, for appreciation. After due deliberation, the name of the petitioner was recommended on verification of the documents, which were scribed in Urdu dialect. The Full Bench of this Court, in the case of “Tukaram Ramji Koli” (supra) has observed as under :-

“We may also clarify that it will not be proper for the Government to reject the applications processed by the Gaurav Samiti and pending before the Government for final decision solely on the ground that they do not comply with the requirements of G.R. dated 4th July, 1995 specifically when all these claims have been scrutinized by the Collector and recommended by; the Gaurav Samit on the basis of the guidelines/requirements that were in force at the relevant time”

11] The petitioner filed affidavit in rejoinder and contended that he had participated in the Hyderabad Mukti Sangram between the period 1947 to 1948 as underground freedom fighter under the leadership of veteran Freedom Fighter Shri Vitthalrao Champatrao Naik and Shri Vithoba Bhise. He had produced the letters of correspondence exchanged in between himself and the Revenue Authority, Parbhani during 1989-90 in which he made it clear that his name has been mentioned at Sr. No.5 in the

police report in Column No. 3 scribed in Urdu dialect. He has also produced the certificate of veteran freedom fighter Vitthalrao Naik and Vithoba Bhise in support of his claim.

12] We have perused the documents minutely which categorically demonstrate the participation of the petitioner in the Liberation Movement. It would be reiterated that spirit of the scheme is to honour and acknowledge the valuable sacrifices of the freedom fighter in freedom movement and to provide monetary assistance in hour of need to them. Obviously, the petitioner is clamoring for the pensionary benefits since the year 1989. Moreover, his name was recommended by the Zilla Gaurav Samiti after due deliberation and consideration of the circumstances relating to his participation in the Liberation Movement prior to 4.7.1995. Therefore, it would be fallacious to turn down the claim for pensionary benefit on the ground of non-compliance of eligibility criteria as laid down under the Government Resolution dated 4.7.1995. We are of the opinion that it would be unjust and improper to rebuff the claim of the petitioner on such flimsy ground who proved his sacrifice in the Liberation Movement. The document of police report, affidavits of the veteran freedom fighters produced on record categorically indicate his involvement in the Liberation Movement. In such circumstances, by taking recourse to the judgment of the Full Bench mentioned above, we find that the claim of the petitioner needs to be scrutinized on the basis of guidelines which were in force at the relevant time. There is no impediment to arrive at the conclusion that the petitioner

has fulfilled the eligibility criteria to claim benefit under the Swatrantrya Sainik Samman Pension Scheme. The petitioner is entitled to receive the pensionary benefit under the scheme, as claimed from the date of his application dated 6.2.1989.

13] In the result, we pass the following order :-

[a] The writ petition is allowed;

[b] It is held and declared that petitioner is underground freedom fighter having participated in Hyderabad Mukti Sangram and respondents are directed to issue requisite certificate as underground freedom fighter to the petitioner;

[c] The pensionary benefits under the scheme as claimed by the petitioner be paid to him from the date of his application i.e. since February, 1989;

[d] The respondents shall pay the arrears of pensionary benefits to the petitioner, expeditiously, preferably within four months from the date of this order.

[e] Rule made absolute in above terms. There shall be no orders as to costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-