

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION Nos.32845 and 32846 of 2013

COMMON ORDER:

Since the issue involved in both the Writ Petitions being one and the same, the petitions are heard together and are being disposed of by a common order.

Vide the present petitions, the petitioners seek a direction thereby directing the respondents to consider their representations dated 23.02.2004 for grant of Freedom Fighters Pension under 'Swatantra Sainik Samman Pension'. A consequential direction is sought to admit their names into the scheme for grant of Freedom Fighters Pension from the date of the scheme at par with other freedom fighters and to release the same accordingly.

For convenience, the facts narrated in W.P.No.32845 of 2013 are taken note of.

In the writ affidavit filed by the petitioner, it is stated that he participated in freedom movement organized against the Nizam's Feudal Rule during 1947-48. According to the instructions of the communist party, the petitioner gathered people to conduct freedom awareness meetings and took out processions hoisting National Flags and Red Flags. The petitioner canvassed from village to village about the atrocities of Nizams Feudal Rule and made people not to pay land revenue. The petitioner fought against Nizam for merger of Hyderabad into Indian Union.

Learned counsel for the petitioner submits that, when the Nizam Government issued arrest warrant against the petitioner and his colleagues, he went underground, conducted underground activities along with hundreds of persons. The petitioner worked in the freedom struggle, under the leadership of Sri N.Mohan Rao, camp at Penuganchiprolu Village, Nandigama Taluk, Krishna

District. The Camp incharge certificate is filed along with the material papers.

Learned counsel for the petitioner further submits that a scheme named 'Swatantra Sainik Samman Pension' was introduced by the Government of India and several freedom fighters had been awarded pension. Accordingly, the petitioner filed application to respondent No.1, through State Government, satisfying all the conditions prescribed therein. The said application is still under process. The petitioner, being an illiterate and old, was unable to keep a copy of the application with him. Respondent No.1, vide communication F.No.112/4906/97-FF(HC)-A dated 23.02.2004, denied to admit the name of the petitioner because the name of the border camp, mentioned in the application viz. 'Penuganchiprolu', did not appear in the accepted list of border camps certified by the erstwhile Hyderabad Special Screening Committee.

Learned counsel for the petitioner submits that, in fact, several freedom fighters hailing from the village of the petitioner were sanctioned pension by respondent No.1, but the petitioner was deprived of the said benefit.

Learned counsel for the petitioner further submitted that respondent No.1, in fact, issued proceedings No.282/Sr/Hc/99-FF(HC) dated 28.01.2005 through which 18 additional border camps were included in the said list wherein 98 border camps were already approved. The name of the freedom struggle camp wherein the petitioner went underground viz. 'Penuganchiprolu' was notified in the additional list at Sl.No.7 whose camp incharge was N.Mohan Rao.

Respondent No.1, in his counter affidavit, submits that firstly, the petitioner had not furnished representation dated

23.02.2004, and secondly, the petitioner is referring to respondent No.1 letter No.112/4906/97-FF(HC)-A, dated 23.02.2004 rejecting his claim. Therefore, how it is possible that his application was rejected on the same day he filed with respondent No.1.

A scheme named as 'Swatantrata Sainik Pension Scheme, 1980,' was introduced for grant of pension to freedom fighters by the Government of India. Thereafter, in the year 1984, name of said scheme was changed to 'Swatantrata Sainik Samman Pension Scheme'. Clause 2.2 deals with imprisonment. Sub-clause (b) thereof stipulates that, in case records of the relevant period are not available, the second evidence in the form of 2 co-prisoner certificates (CPC) from freedom fighters who have proven jail suffering of minimum 1 year and who were with the applicant in the jail 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. In case the certifier happens to be a sitting or Ex.M.P./M.L.A., only one certificate in the place of two is required.

A perusal of communication dated 05.02.2014 of respondent No.1 addressed to the Secretary, Revenue (FF.III) Department, Government of Andhra Pradesh, Secretariat, Hyderabad, reveals that, as per re-verification report, the order of this Court dated 18.11.2013 in W.P.No. 32845 of 2013 was cited, and the petitioner filed the said Writ Petition to consider his representation dated 23.02.2004 for grant of freedom fighter pension. However, no such representation is on the records of the Ministry. In fact, the records of the Ministry reveal that the claim of the petitioner was rejected vide letter No.112/4906/97-FF (HC)-A dated 23.02.2004

under intimation to the State Government of Andhra Pradesh.

A fresh re-verification report, forwarded by the Government of Andhra Pradesh in compliance with the directions of this Court, was considered as per the policy for grant of Pension under Swatantrata Sainik Samman Pension Scheme, 1980, and the guidelines/instructions issued from time to time. After examination of fresh re-verification report, it was observed that the Government of Andhra Pradesh had forwarded merely photocopies of documents and checklist was submitted by the District Collector, Warangal. Accordingly, photocopies of documents and checklist forwarded were examined. It was found that the petitioner had not made specific claim of six months suffering in a border camp and, therefore, his claim was rejected as per para 5(i) of guidelines issued under Ministry's letter No.112/08/2008-FF (HC) dated 10.09.2009.

In addition to the above, photocopies of the Personal Knowledge Certificate (PKC) and Co-Freedom Fighter Certificate (CFCs) submitted by the petitioner do not indicate specific details of the Cases, Authority which necessitated him to go underground and such PKC/CFCs certifiers have made vague unverifiable statements. Therefore, PKC/CFCs are not consistent with the aforesaid guidelines and, accordingly, rejected the same.

In the aforesaid letter, it is further stated that, without prejudice to the fact that PKC is not acceptable being not consistent with the guidelines, it was also noted that PKC certifier, Sri Vytla Soma Narsaiah, claimed to have been lodged in Aurangabad Central Jail from 01.11.1947 A.D to 10.11.1948 A.D which coincides with the period of certified underground suffering of the petitioner and obviously he could not have knowledge of activities outside jail. Further, CFCs produced by the petitioner are

not in the prescribed format as the certifiers have not indicated their six months imprisonment suffering.

It is admitted fact that freedom fighters scheme started in the year 1980 and Swatantrata Sainik Samman Pension Scheme was introduced in the year 1984. It is admitted fact that the Central Government constituted committee to go to village to village and sought applications from freedom fighters to consider their claims. The said committee collected all the information documents and, accordingly, recommended the cases of those freedom fighters during the relevant period. Thereafter, the said committee disbanded. It cannot be believed that the petitioner was not aware of the committee constituted by the Central Government and, therefore, he could not make his claim during that period and made application somewhere in the year 1997. The petitioner sent reminder on 23.02.2004 and, thereby, stated that he was eligible for the pension scheme.

I note the age of the petitioner is '78' years. As per the affidavit of the petitioner, he claims to have participated in the year 1947-48. It establishes that, at that point of time, the petitioner might be 10 years old. I also cannot believe the submission of the learned counsel for the petitioner that he being innocent was not aware of the Pension Scheme for the reason that those who participated in liberalization of Nizams rule are quite intelligent and active. Therefore, they could have managed to hide six months or more. As claimed by the petitioner, number of prisoners are from his village, despite which, the petitioner is unaware of the scheme. The petitioner never agitated before any Court of law. However, for the first time, the petitioner filed the instant Writ Petition in the year 2013, much belatedly, which is an after-thought.

Without commenting participation of the petitioner in

liberation movement of India in the year 1947-48, I hereby dismiss the Writ Petition.

Since the petitioner in W.P.No.32846 of 2013 is similarly situated to that of the petitioner in W.P.No.32845 of 2013, this Writ Petition is also liable to be dismissed and is, accordingly, dismissed.

Miscellaneous Petitions pending, if any, shall also stand dismissed. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

Dt:09.08.2016

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