

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 14073 of 2011

Date of decision:17.05.2016

Daya Kaur

.....Petitioner

versus

Union of India and another

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. A.K.Walia, Advocate
for the petitioner.

Mr. Ajay Kumar Gupta, Advocate
for UOI.

Mr. Suresh Singla, Addl.AG, Punjab.

Rakesh Kumar Jain, J.(Oral)

This petition is filed by the widow of Gurmukh Singh (the alleged freedom fighter) to whom the Freedom Fighter Pension(for short, 'pension') is already being paid by the Punjab Government under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short, 'the scheme') but the central government pension has been declined only on the ground that the secondary evidence led by the petitioner by way of affidavits of two co-prisoners namely Gopal Singh Quami and Sher Singh can not be believed because both of them have issued certificates to various other persons and it was presumed that no person can remember the personal details including the date of imprisonment and the date of release of the co-prisoner after the period of 30-40 years.

Counsel for the petitioner has relied upon the decision

of this Court rendered in CWP No. 214 of 2011 titled as *Santokh Singh vs. Union of India and another* decided on 17.07.2014 which has been upheld in LPA NO. 2089 of 2014 titled as *Union of India and others vs. Santokh Singh and another* decided on 6.01.2015.

Shri Ajay Kumar Gupta, Counsel appearing on behalf of respondent No. 1 has submitted that the only reason for not granting the pension to the petitioner is that the affidavits given by the co-prisoner of the deceased freedom fighter have been issued indiscriminately.

I have heard learned counsel for the parties and perused the available record.

As a matter of fact, the similar issue came up for consideration before this Court in Santokh Singh's case (*supra*) in which the objection was raised by the Union of India about the certificates, much less affidavits, given by the co-prisoners to number of persons. However, the said contention was not accepted and ultimately the writ petition was allowed in favour of the said freedom fighter. The Union of India also failed in intra court appeal filed against the order dated 17.07.2014 wherein the Division Bench has noticed that "*the respondent's claim was rejected only on the ground that the co-prisoners had issued certificates to several other persons as well. It is also important to note that the State Government had verified the respondent's claim and has been paying him pension under the same scheme since the year 1993.*" In this case also the same certificates of the said co-prisoners of the petitioner's husband were verified by the State of Punjab and thereafter, the petitioner is getting the freedom fighter

pension but the same documents are being denied by the Union of India.

In view of the aforesaid, the present petition is found to be meritorious and the same is allowed. Respondent No. 1 is directed to immediately consider the case of the petitioner for grant of pension and also pay the arrears of pension w.e.f the date it was due to be paid to the petitioner. The entire exercise shall be conducted by Union of India within a period of one month and the petitioner shall be paid the monthly pension as well as arrears with simple interest @9%.

17th May, 2016

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**