

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.20729 of 2006

ORDER:-

This writ petition is filed for a mandamus declaring the action of the respondents in not paying pension to the petitioner under the Swatantra Sainik Saman Pension Scheme-1980, though the same was sanctioned on 11.09.1997 itself, as illegal and arbitrary, and consequently direct the respondents to forthwith pay freedom fighters pension to the petitioner.

Heard both sides and perused the material on record.

In support of the writ petition, an affidavit was filed stating that the husband of the writ petitioner was a freedom fighter during the years 1946-1948 and therefore, under the scheme of Swatantra Sainik Saman Pension Scheme, which is in force from 1980, the freedom fighter and after his death, the writ petitioner being the wife, is entitled to the pension. It is further submitted that the freedom fighter Sri Veeraiah died on 08.12.1998. During his lifetime, he submitted an application to the 1st respondent for grant of pension and it is submitted that though pension was sanctioned the same is not being paid.

The order which is referred to by the writ petitioner is dated 11.09.1997. A perusal of the order, dated 11.09.1997 in proceedings No.112/3/97-FF(HC) Ministry of Home Affairs/GRIH Mantralaya Freedom Fighters Division/Swatantra Sainik Vibhag, shows that it is not the order sanctioning any pension to the freedom fighter, but on the other hand, it is the letter addressed by the competent authority to the freedom fighter, calling upon him to submit certain documents in support of his claim for grant of family pension. The order which is referred to by the writ petitioner is not the order sanctioning the pension as such.

In the affidavit filed in support of the writ petition, the writ petitioner, who is the wife of Sri Veeraiah, who is said to be freedom fighter and who died on 08.12.1998, it is stated that a reply has been sent to the letter issued by the Central Government on 11.09.1997, furnishing requisite information, however, no proof thereof is produced.

Respondent No.1 in its counter stated that the original file pertaining to the petitioner is misplaced and on 19.03.2007 a request has been sent to the State Government to provide the requisite documents and the matter is pending with the State Government.

In view of the above, it is manifest that the writ petition is filed under erroneous impression that the Central Government has sanctioned pension on 11.09.1997, but still not paying the same. As already stated, the letter of the 1st respondent, dated 11.09.1997, is only requiring the deceased freedom fighter to furnish the documents, but not sanctioning the pension.

In that view of the matter, I seen no merit in this writ petition and the same is accordingly dismissed. However, it is open to the writ petitioner to approach the 2nd respondent afresh with all the requisite documents, and as and when such an application is made, the same shall be processed, in accordance with law. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL, J

Date: 17.08.2017
Dsr