

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION NO. 22149 of 2006

ORDER:

Heard the learned counsel for the petitioner as well as respondents.

2. The petitioner, in the present writ petition, seeking a declaration that the impugned letter in File No.112/59/99-FF(HC)(A)-1, dated 01.02.2006 issued by the first respondent as bad, illegal, arbitrary and against the principles of natural justice and consequently sought a direction to the respondents to grant Swatantra Sainik Samman Pension (for short 'SSSP') to the petitioner forthwith from the date of application, as per the recommendations of the Hyderabad Special Screening Committee (for short 'HPSC').

3. The facts of the case are that the petitioner is the resident of Kothapally village, Station Ghanpur mandal, Warangal District. He actively participated in the movement against Nizam's Government and for merger of Hyderabad State in the Indian Union during the years 1947-48. He organized several meetings in his area to bring awareness among the people and against the Nizam's autocracy. Because of the activities taken up by him, the then Government issued warrant against him and he went underground to avoid arrest and continued the activities under the leadership of Sri Nellutla Manohar Rao and A.Hanmantha Rao. In pursuance of

'SSSP' Scheme evolved by the Central Government in the year 1980, he submitted an application to the first respondent in the month of December, 1997 by enclosing necessary certificates as per the liberalized pension scheme. The respondents also conducted enquiry through the Revenue Divisional Officer, Warangal, Mandal Revenue Officer, Station Ghanpur and sent a report in the month of January, 2002 and recommended the name of the petitioner for sanction of pension. The first respondent also issued a letter directing the petitioner to submit the documents such as his attested joint photograph and his family members, family details, specimen signatures, thumb impressions, slip of marks of identification and the bank pass book opened in the notified Nationalised Bank etc. He has complied with the above said conditions. It is also stated that a letter was addressed directing him to submit necessary documents for sanction of pension and after submitting those documents, the petitioner cannot be expected to comply with any other further direction. However, the impugned letter dt.01.02.2006 issued is very vague in nature and the same is liable to be set aside directing the respondents to grant 'SSSP' to the petitioner.

4. Per contra, the first respondent filed a counter-affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that on examination of the claim of the petitioner, it has been found that the case of the petitioner was considered by the 'HSSC'. However, it is pointed out that consideration does not *ipso facto* imply recommendation. The requisite and mandatory HSSC-recommendation slip signed by the

Chairman and the Members of the HSSC is not available on record in the file of the petitioner. In the absence of valid recommendation of the HSSC, it cannot be presumed that the case of the petitioner was duly recommended by the 'HSSC'. There is no other document on record to fully and duly establish that the case of the petitioner was recommended by the HSSC. Therefore, the case of the petitioner cannot be taken as recommended by the HSSC. Even in the absence of HSSC for considering the application of the petitioner under the normal provisions of the Scheme, the other evidentiary requirements, such as, issuance of PKC certificate, or any certificate from a co-prisoner and etc. were not found in the file of the petitioner. Viewed from any angle, the claim of the petitioner was not accepted for want of the basic requirements and accordingly, the claim was rejected by the Ministry through the impugned proceedings.

5. The learned counsel appearing for the petitioner would contend that what all the petitioner has to do in compliance with the scheme, he complied with after submitting the application which has been recommended by the HSSC. However, a perusal of the counter-affidavit would indicate that when the first respondent had taken up the application of the petitioner for consideration, the relevant material document of the HSSC recommendatory slip was not available on record. That apart, even the secondary evidence in the form of issuance of PKC certificate or the recommendatory letter from a co-prisoner etc. was also not there. Therefore, on both the counts, the first respondent has negated the case of the petitioner for grant of pension under the 'SSSP' Scheme.

6. In the light of the above, when the application of the petitioner was not enclosed with the relevant material documents, the petitioner cannot expect the respondents to act upon his application to grant pension. In these circumstances, this Court feels that there is no irregularity or illegality in the impugned proceedings dt.01.02.2006. Further, apart from the absence of material particulars, there are no merits in the writ petition and the same is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

Date:08.12.2017
CCM

JUSTICE P. KESHAVA RAO



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