

IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF TELANGANA
AND ANDHRA PRADESH AT HYDERABAD

MONDAY THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION NO.16596 OF 2007

Between:

Yachavarapu Varada Reddy
[died per LR Petitioner No.2
Smt. Anasuyamma]

... Petitioner

V/s.

The Government of India
Represented by its Dy. Secretary
Ministry of Home Affairs,
Freedom Fighter Division,
Hyderabad Cell,
First Floor, Lok Nayak Bhavan,
Khan Market, New Delhi & Ors.

... Respondents

Counsel for Petitioner : Sri Rathangapani Redy

Counsel for Respondents : Sri K. Lakshman
[Asst. Solicitor General]
Sri Ch. Siva Reddy

The court made the following : [order follows]

HONOURABLE SRI JUSTICE P. KESHAVA RAOWRIT PETITION NO. 16596 OF 2007**ORDER:**

The present writ petition is filed seeking declaration that the impugned Proceedings No. 112/2840/97-FF [HC], dated 08/5/2007, 112/9224/97-FF [HC], dated 31/5/2007, 112/8795/97-FF [HC], dated 01/6/2007 and 112/4323/97-FF [HC], dated 20/6/2007 of the second respondent in suspending the pension granted in favour of the petitioner under Swatantra Sainik Samman Scheme as arbitrary, illegal, violation of the principles of natural justice and consequently to set aside the same.

2. The brief facts of the case are that originally the petitioner herein was granted pension by the first respondent under orders dated 20/12/1988. While so, the petitioner received impugned proceedings dated 08/5/2007 issued by the second respondent suspending the pension granted in his favour on the ground that he issued a false certificate to one Mr.Pratahapani Venkateswarlu to the effect that he was in Peddaram Border Camp for more than six months and helped ineligible persons in getting pension. In reply to the said proceedings,

the petitioner submitted his explanation stating that he has not given any certificate to Pratahapani Venkateswarlu, as he does not have personal knowledge about his participation in the Hyderabad Liberation Movement and in the absence of certificate as alleged and without giving an opportunity his pension cannot be suspended. Similarly the petitioner received three more proceedings dated 20/6/2007 with similar allegations. In response to the said explanation given by the petitioner, the first respondent to have issued Order No. 112/9224/97-FF [HC], dated 31/5/2007, 112/8795-FF [HC], dated 01/6/2007 and 112/4323/97-FF [HC], dated 20/6/2007 and on perusal of the same, the petitioner realized that his signature is forged. In those circumstances, the present writ petition is filed.

3. Pending the above writ petition, WPMP.No. 21136 of 2007, WPMP.No. 21137 of 2007, WPMP.No. 21138 of 2007, WPMP.No. 21139 of 2007 are filed seeking different reliefs including the suspension of the impugned proceedings dated 08/5/2007, 31/5/2007, 01/6/2007 and 20/6/2007 respectively. This Court after hearing was pleased to

suspend the said proceedings by orders dated 10/08/2007. Though the writ petition is of the year 2007, no counter-affidavit is filed. However, the Assistant Solicitor General appearing on behalf of the respondents 1, 2, 4 and 5 submit that since the petitioner died, the pension cannot be granted to his wife being dependent/legal heir and for that he relied on a memo dated 06/8/2014.

4. The counsel for the petitioner filed WPMP.No. 51357 of 2017 to bring the wife of the deceased petitioner on record as legal heir. This Court, after hearing allowed the said WPMP.No. 51357 of 2017 on 12/12/2017.

5. In reply to the arguments of the Assistant Solicitor General, the petitioner filed a counter-affidavit stating that in spite of the death of the original pensioner, pension cannot be stopped and it will pass on to his heir/dependent. To support his contention, he has relied on the guidelines for disbursement of Central Samman Pensions appended to the proceedings dated 06/8/2014. As per the guidelines 1.5, 5 and 5.2 the sanction of pension after the death of freedom fighter can be

granted to the spouse/daughters. It is crystal clear that even after the death of original pensioner, the transfer of pension can be granted in favour of the wife/legal heir of the deceased petitioner.

6. For the sake of convenience, it is relevant to extract the salient features of the guidelines 1.5, 5 and 5.2 for disbursement of Central Samman Pensions to be followed and the same are as follows :

1.5 Sanction of pension after the death of Freedom Fighter :

No pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. This also entails that no Life time arrears or dependent pension shall be sanctioned to his/her spouse/daughter after the death of the freedom fighter.

5 Sanctioning the dependent pension to spouse or daughters of Freedom Fighter :

Dependent pension shall be sanctioned to the spouse or un-married daughters only if their names were appearing in the original application form submitted by the freedom fighter or the sanction letter issued by the Ministry. If the freedom fighter marries or has a daughter, either own or adopted, after the sanction of the pension, then family pension to such spouses or daughter shall not be admissible.

5.2 Transfer of Pension to Spouse/Daughters :

After the death of the pensioner [whether freedom fighter himself or his spouse] the transfer of pension to the spouse/daughter will only be considered if she applies for transfer of pension within six months of the death. Application received after six months shall not be considered by the Bank but refer to the Ministry. The Ministry shall then take a view whether to allow dependent pension or not or whether any arrears are to be paid.

7. The counsel for the petitioner also brought to the notice of this Court that in similar circumstances, the respondents have approved the dependent family pension in favour of one Smt. V.Mahalakshmi wife of late Shri Vaddepalli Ramulu as well as Smt. G. Samrajyam wife of late Shri G. Bicham, vide proceedings dated 07/6/2017 and 27/10/2017.

9. A perusal of the said proceedings dated 07/6/2017 and 27/10/2017 of the respondents would indicate that the transfer of Freedom Fighter Pension was approved after the death of their husbands. If that being the case, the arguments advanced by the Assistant Solicitor General that the disbursement of Freedom Fighter Pension under Swatantra Sainik Samman Pension Scheme cannot be extended to the dependents, has no merits.

10. A reading of the guidelines 1.5, 5 and 5.2 would clearly indicate that the dependents and the legal heirs of the original pensioners are entitled for the Freedom Fighters Pension under the above scheme after their death. That being the position, the second

petitioner herein being the wife of the first petitioner, is entitled to claim pension under Swatantra Sainik Samman Pension Scheme, 1980.

11. Accordingly, the writ petition is allowed. No costs.

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

JUSTICE P. KESHA RAO.



18/12/2017
I s L

HONOURABLE SRI JUSTICE P. KESHAVA RAO



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