

In the High Court of Punjab & Haryana at Chandigarh.

CWP-5975-2014 (O&M)

Date of decision: 08.05.2017

Avtar Singh

..... Petitioner.

V/S

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rajeev Anand, Advocate for the petitioner.

Mr. Puneet Gupta, Advocate for respondents No.1 and 2.

Mr. I.P.Goyat, Addl. A.G.Punjab.

M.M.S. BEDI.J.(ORAL)

The petitioner claims that on the basis of the secondary evidence for want of primary record based evidence, he had applied for pension under the Swatantrata Sainik Samman Pension Scheme which was introduced in the year 1980 but his claim for above said pension, forwarded by the State vide Annexure P5, has been rejected by the Government of India, Ministry of House Affairs vide communication dated 05.03.2014 (Annexure P6). While declining the Swatantrata Sainik Samman Pension Scheme, the following short comings were noticed:-

“ (i) The SSS Pension Scheme was introduced by Union of India in 1980, but the petitioner had applied for grant of pension in 2009 after a belated period of 29 years. This creates a doubt regarding the genuineness of the petitioner.

(ii) For his claimed suffering mentioned above, he has not produced any primary document/record based evidence.

(iii) In his application dated 4.3.2009 Shri Avtar Singh

had claimed that he is 80 years old but as per report dated 5.11.2013 from Civil Surgeon, Ludhiana the age of Shri Avtar Singh was certified only 70 years which is contradictory.

(iv)As a secondary evidence, the petitioner has submitted the two CPCs of Shri Dharam Singh S/o Shri Ram Singh, R/o VPO-Kanech, Teh. & Distt. Ludhiana and Shri Chain Singh S/o Shri Dalel Singh, R/o 163, Green Park, Jalandhar City, Punjab. But the genuineness of the certifiers is doubted and cannot be relied upon. In the affidavit submitted by Shri Chain Singh where he stated that he took part in Kissan Morcha and was detained in Central Jail Rawalpindi from June 1939 to January 1940 which is only seven months. As per the provisions of SSS Pension Scheme 1980 the freedom fighters whose jail suffering is minimum one 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. Therefore, the CPC of Shri Chain Singh is doubtful and cannot be considered.

(v)From the State Government's letter dated 10.1.2014 it is observed that enquiry of SDM, Payal is based on the statement submitted by the co-prisoners Shri Dharam Singh and Shri Chain Singh. But they have not produced and proof in respect of their statement. Thus the report of SDM, Payal is not satisfactory.

(vi)State Government is their letter dated 10.1.2014 had simply forwarded the application of the petitioner dated 4.3.2009, without giving a reason as to why the State Government has not sanctioned the State Pension to him. It is important to mention here that the State Government's Rules are more liberal than the Central Government. Even then, the State pension

was not sanctioned as the petitioner's case was not found eligible for the grant by them.”

Counsel for the petitioner vehemently contended that the petitioner has been wrongly denied the benefit of the said pension scheme.

I have heard counsel for the petitioner and the counsel for the respondents.

The Government of India has objectively considered the evidence and facts of the case and denied pension to the petitioner.

There is a major discrepancy regarding the age of the petitioner. If the contention of learned counsel for the petitioner is admitted, then it transpires that having born in the year 1928, he was just 11 years of age in 1939 when he is stated to have been arrested and kept in custody alongwith co-prisoners.

I have not found sufficient ground to interfere in the disputed question of fact to redetermine the eligibility of the petitioner in the exercise of writ jurisdiction.

Since, the disputed question of fact regarding the eligibility of the petitioner for the pension is involved, hence the present petition is dismissed.

08.05.2017
smriti

(M.M.S. BEDI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No