

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.399 of 2015

Ashok Kumar Lonawat, S/o Late Shri Babulalji Lunawat, aged about 68 years, R/o Near Gurudwara, Station Road, P.S. Mohan Nagar, Durg (C.G.)

---- Petitioner

Versus

1. The Union of India, through the Secretary, Ministry of Home Affairs, FFR Division-CZ Section, Lok Nayak Bhawan, Khan Market, New Delhi
 2. The Under Secretary, Government of India, Ministry of Home Affairs/ Grih Mantralaya Freedom Fighter Division, 2nd Floor, NDCC-II Building, Jai Singh Road, New Delhi
 3. State of Chhattisgarh, through the Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
- Respondents

For Petitioner: Mr. D.N. Prajapati, Advocate.

For Respondents No.1 and 2 / Union of India: -

Mr. Vaibhav P. Shukla, Advocate on behalf of
Mr. Bhupendra Singh, Central Govt. Counsel.

For Respondent No.3/State: Mr. R.N. Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/08/2018

1. Late Shri Babulal Ji Lunawat was freedom fighter. The petitioner is his son. Babulal Ji Lunawat was not paid Swatantrata Sainik Samman Pension with effect from 16-5-1985 and in his lifetime the said pension could not be paid to him leading to filing of writ petition bearing W.P. (C) No.1835/2011 by her wife before this Court which was granted by this Court on 25-4-2013 directing the Union of India to make payment with effect from 16-5-1985 which was assailed by the Union of India in writ appeal (W.A.No.557/2013) and the said writ appeal was

dismissed affirming the order of the learned Single Judge. The SLP filed by the Union of India before the Supreme Court was also dismissed. Thereafter, the Union of India has not paid arrears from 16-5-1985 till 17-8-2008 and notice dated 31-12-2014 has been issued to the wife of the freedom fighter to file affidavit that she has no independent source of income against which this writ petition has been filed.

2. Mr. D.N. Prajapati, learned counsel appearing for the petitioner, would submit that the matter has already been concluded and all the points raised have already been decided up to the Supreme Court in the writ petition filed by Late Smt. Ichhadevi Lunawat, wife of the freedom fighter and now, the settled issue cannot be reopened by compelling the petitioner, who is son of the Late freedom fighter, to file affidavit which is nothing but to circumvent the orders passed by this Court and the Supreme Court. Even the policy Annexure R-1/1 by which the affidavit having no independent source of income is required to be filed is of 6-8-2014 and is not applicable to the present case of the petitioner, therefore, the respondents be directed to pay the arrears of pension as directed by this Court duly affirmed by the Supreme Court.
3. Learned counsel for the Union of India would support the impugned order and would submit that the petitioner is required to file affidavit stating that he has no independent source of income as required under the Guidelines for disbursement of Central Samman Pensions to be followed by Authorized Public Sector Banks.
4. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the record with utmost circumspection.

5. The principle behind granting pension and other emoluments to freedom fighters or to their sons & daughters is a tribute on account of involvement in the freedom movement. The said person or their children had obviously suffered prejudice and incurred disabilities and it is to overcome such prejudice or difficulties such pension is given to freedom fighters or their children and object is to extend the benefit of pension to all the freedom fighters as a token of respect to them for their freedom struggle for the nation.
6. It is not in dispute that the aforesaid pension is being paid with effect from 18-8-2008. The only dispute is with regard to payment of arrears of pension from 16-5-1985 to 17-8-2008 for which this Court has issued mandamus to the respondents which was duly affirmed by this Court in writ appeal and the Supreme Court has dismissed the SLP filed by the respondent Union of India. There is a categorical direction by this Court to pay the amount of arrears of pension to the petitioner. The fact remains that once order has been passed, the respondents ought to have complied with the order and could have paid the arrears of Swatantrata Sainik Samman Pension which has not been paid and it has been withheld despite the order of the Court which is wholly improper. No such ground of filing affidavit of not having independent source of income was raised in the writ petition in which mandamus was issued to the Union of India on 25-4-2013 and even otherwise, it appears that Annexure R-1/1 bearing No.45/03/2014 – FF(P) has been issued on 6-8-2014 which is not applicable in the case of the petitioner, as the petitioner's case has already been adjudicated upon. Consequently, the letters dated 31-12-2014 and 9-2-2015 (Annexure P-1) are hereby quashed. The respondent Union of India is directed

to release the arrears of pension within two weeks from today.

7. The writ petition is allowed to the extent indicated herein-above.

Since the original order was passed by this Court way back on 25-4-2013 duly affirmed by the writ appeal court and by Hon'ble the Supreme Court on 10-10-2014 and till this date, the order has not been complied with by the Central Government, therefore, a cost of ₹ 5,000/- is imposed upon respondent No.1 for adopting delaying tactics in complying the order of this Court.

Sd/-
(Sanjay K. Agrawal)
Judge

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The Union of India and others

Head Note

Object of granting Swatantrata Sainik Samman Pension to freedom fighters is to extend respect to them for their freedom struggle for the nation.

स्वतन्त्रता सेनानियों को स्वतन्त्रता सैनिक सम्मान पेन्शन प्रदान करने का उद्देश्य राष्ट्र हेतु उनके स्वतन्त्रता संग्राम के लिए उन्हें सम्मान देना है।