

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22661 of 2007

ORDER:

This Writ Petition is filed seeking a Writ of *Mandamus* by declaring the action of the respondent in not considering the application of the petitioner for grant of pension under Swatantra Sainik Samman Pension Scheme as arbitrary and illegal and consequently to direct the respondent to consider the application of the petitioner for grant of such pension under the said scheme.

Heard Sri Kowturu Pawan Kumar, counsel for the petitioner and Sri K.Lakshman, learned Assistant Solicitor General.

It has been contended by the petitioner that he was a freedom fighter and he fought against the Nizam rule and its merger into Union of India . It has been further contended that he had actively participated in the freedom struggle during the year 1947-48 and he went underground and participated in the border camp under the leadership of Y.Varada Reddy and joined in Peddaram Border camp. It is further contended by the petitioner that the Government of India had formulated 'Swatantra Sainik Samman Pension Scheme-1980' to provide pension to the eligible freedom fighters and invited applications from such of those persons who have actively participated in the freedom struggle. Accordingly, the petitioner has submitted an application seeking pension under the said scheme on 8.11.1988 but the respondent had not considered his case. As his case was not considered, he submitted another application on 2.12.1997 but no orders are passed either granting pension or rejecting the same. In those set of circumstances, the present petition is filed.

During the pendency of the writ petition, the petitioner expired on 27.10.2012 and the wife of the petitioner is brought on record as the legal representative.

Learned Assistant Solicitor General had contended that as the petitioner had not enclosed any material papers, he is not entitled for any pension under the said scheme. He has not filed any proof of his struggle in the freedom movement and, therefore, his case is liable to be rejected only on that sole ground.

This Court having considered the rival submissions made by the parties, feels it appropriate, without expressing any merits of the case, that the application submitted by the deceased petitioner be considered for grant of pension under the said scheme. Accordingly, the respondent is directed to consider the representation submitted by the deceased petitioner, if the deceased petitioner had really participated in the freedom struggle after causing a detailed enquiry and pass appropriate orders either to grant pension or reject the application for grant of pension under Swatantra Sainik Samman Pension Scheme-1980' within a period of four weeks from the date of receipt of the order.

With these directions, the Writ Petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 11/04/2018

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