

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.16338 OF 2007

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings No.112/132/97-FF(HC), dated 19.6.2007 as arbitrary, illegal, discriminatory and violative of Articles 14, 21 and 300(A) of the Constitution of India, and consequently, to set aside the same.

2. Heard Sri N. Krishna Murty, learned Counsel for the petitioner and Sri K. Lakshman, Assistant Solicitor General.

3. It has been submitted by the learned Counsel for the petitioner that the petitioner is the freedom fighter and he had actively participated in Hyderabad Liberation Movement against the erstwhile Nizam State and during the said freedom struggle, the petitioner used to move in camps for the period from 1947 to September, 1948 and that the respondents in recognition of his struggle in Hyderabad Liberation Movement was pleased to sanction freedom fighter's pension in favour of the petitioner vide proceedings dated 25.2.1983 and since then, the petitioner has been drawing the said freedom fighters' pension, and while so, the respondents issued a show cause notice to the petitioner on 19.6.2007 alleging that the petitioner certified that one Katakam Venkatanarayana was co-prisoner in Mangollu Camp for the period from 1947 to September, 1948 and based upon the said certificate stated to have been issued by the petitioner, the respondents granted freedom fighters' pension in favour of Katakam Venkatanarayana in the year 2004 and subsequently, the respondents realized that Katakam Venkatanarayana is not entitled to freedom fighters' pension as the age of the said Venkatanarayana as per the voters' list of the

year 1995, was 59 years as on 1.1.1995, which would mean that the said Venkatanarayana was aged about 11 years during the year 1947-48, and based upon the false certificate said to have been issued by the petitioner, the respondents erroneously granted pension in favour of Katakam Venkatanarayana. It has been further submitted that the respondents intended to cancel the pension granted in favour of the petitioner and accordingly, they issued show cause notice on 19.6.2007 alleging that the certificate issued by the petitioner in favour of Katakam Venkatanarayana is false and therefore, action was initiated against him for canceling the pension granted in his favour.

4. Further, it has been submitted by the learned Counsel for the petitioner that it was stated in the show cause notice that pending final disposal of the case, the provisional pension sanctioned in favour of the petitioner is suspended with immediate effect i.e., from the date of issuance of the show cause notice and that the petitioner submitted a detailed explanation to the said show cause notice on 10.7.2007, but the respondents have not passed any final orders and hence, this writ petition is filed.

5. On 31.7.2017 while admitting the writ petition, this Court granted interim suspension as prayed for. The petitioner sought the following interim relief:

“This Hon’ble Court may be pleased to suspend the operation of the impugned proceedings No.112/132/97-FF(HC), dated 19.6.2007 pending disposal of the writ petition.”

By virtue of the interlocutory order passed by this Court, the petitioner has been drawing pensionary benefits on month to month basis.

6. The learned Assistant Solicitor General contends that the petitioner being a freedom fighter has given a false certificate in favour of ineligible candidate and based upon such certificate the ineligible candidate Katakam Venkatanarayana was granted freedom fighters' pension, and when it came to the light of the respondents, appropriate action was initiated against the petitioner.

7. I have considered the rival submissions made by the parties. The respondents though issued show cause notice dated 19.6.2007, so far they have not passed any orders subsequent to the explanation submitted by the petitioner. Ends of justice would be met if the respondents are directed to consider the explanation submitted by the petitioner to the show cause notice dated 19.6.2007. Accordingly, the respondents are directed to consider the explanation submitted by the petitioner to the show cause notice dated 19.6.2007 and pass appropriate orders, after giving opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that until the respondents take a final decision, the petitioner is entitled for freedom fighters' pension on month to month basis.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI.J)

9th March, 2018
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