

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25302 of 2006

ORDER:

This writ petition is filed by the petitioner, who is the wife of a deceased Freedom Fighter, seeking a writ of mandamus, declaring the inaction of the respondents in not paying the Swatantra Sainik Samman Family Pension to her after death of her husband, as illegal and arbitrary and sought a consequential direction to the respondents to grant Swatantra Sainik Samman Family Pension.

Heard Sri A.Suryanarayana, learned counsel for the petitioner and Sri K.Laxman, Assistant Solicitor General of India.

It has been contended by the petitioner that she is the wife of late Pasumarthi Krishna Murthy, who was a freedom fighter, who had actively participated for liberation of Hyderabad State and the respondents in appreciation of his freedom struggle were pleased to grant Swatantra Sainik Samman Pension, vide orders No.112/6069/97 F.F (HC) (A), dated 16.12.2003. But the husband of the petitioner before actually receiving the said pensionary benefits had expired on 11.01.2004 leaving behind him the petitioner and other legal heirs. Though the Swatantra Sainik Samman Pension was sanctioned vide orders dated 16.12.2003, it could not be disbursed in favour of the husband of the petitioner till he expired on 11.01.2004.

It has been further contended by the petitioner that after the death of her husband, she has submitted a representation on 19.06.2005 requesting the respondents to grant family pension by duly taking into account the Swatantra Sainik Samman Pension granted in favour of her

husband, vide proceedings dated 16.12.2003. The respondents have not considered the said representation and the same is still kept pending.

It has been contended by the learned Assistant Solicitor General of India that the Swatantra Sainik Samman Pension in favour of the husband of the petitioner was granted, even though he was not eligible. He further contended that there was misrepresentation on behalf of the husband of the petitioner and basing on the said misrepresentation, the respondents have erroneously granted the pension in favour of the husband of the petitioner, as such, the petitioner is not entitled to seek any pension under the guise of Swatantra Sainik Samman Pension granted in favour of her husband.

Except contending that there was misrepresentation and fraud, no material is placed before this court by the respondents to demonstrate that the husband of the petitioner was wrongfully granted Swatantra Sainik Samman Pension.

This court, having considered the rival submissions made by both the parties, is of the view that the representation submitted by the petitioner on 19.06.2005 deserves to be considered by the respondents.

In view of the above, the writ petition is disposed of, directing the respondents to consider the representation of the petitioner dated 19.06.2005, by duly taking into account the fact that the husband of the petitioner was granted Swatantra Sainik Samman Pension, vide orders dated 16.12.2003, and pass appropriate orders thereon, in accordance with law, within a period of 8 (eight) weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI, J

Date: 28.03.2018
Dsr

