

**HON'BLE SRI JUSTICE P. KESHAVA RAO**

**WRIT PETITION No.26367 of 2010**

**ORDER:**

Heard the learned counsel for the petitioners and Sri G.Praveen Kumar, learned Additional Standing counsel for the respondents - Central Government.

The relief sought in the writ petition is as follows:

“... this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 2<sup>nd</sup> respondent in not granting the pension to the petitioners from the date of their applications under Swatantrata Sainik Samman Pension Scheme, 1980, in spite of representation of the petitioners dated 20.10.2009, as illegal, arbitrary, in gross violation of principles of natural justice and Articles 14 and 21 of the Constitution of India and consequently direct the 2<sup>nd</sup> respondent to sanction the pension to the petitioners from the date of their applications, including the arrears of the pension, with all consequential benefits or otherwise petitioners will suffer serious loss and great hardship.”

The facts of the case are that the petitioners are the freedom fighters. They submitted their applications from 1980 to 1984 under Swatantrata Sainik Samman Pension Scheme, 1980 (for short, “the Scheme”). The 2<sup>nd</sup> respondent considered the said applications and granted pension to the petitioners vide letters dated 04.06.2004, 18.03.2004 and 21.10.2003 respectively from the date of the order. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioners contended that the petitioners submitted their applications between 1980 and 1984 and since the delay is on the part of the respondents,

they ought to have sanctioned pension from the date of the applications, but not from the date of the order.

Per contra, the learned Additional Standing counsel appearing for the respondents filed a counter and contended that since the petitioners have not produced any primary or secondary evidence for grant of pension, the authorities extending the benefit of doubt, sanctioned the pension from the date of the order. He also relied on the judgment of the Apex Court in dated 24.04.1995 in SLP(C).No.2325 of 1995 (*Union of India vs. Ganesh Chandra Dolai and others*) and SLP.No.25053 of 1995 (*M.R. Chellaiah Tevar vs. Union of India*), wherein the Apex Court while considering the similar issue held that in cases where the applicants are unable to produce the evidence prescribed under the Scheme to satisfy the eligibility conditions and pension is sanctioned based on any other document by giving benefit of doubt, pension is sanctioned prospectively i.e., from the date of approval of the competent authority.

Having heard both the counsel and from the perusal of the material on record, the issue that arises for consideration is:

Whether the petitioners are entitled to pension from the date of the application or from the date of the order?

The admitted facts are that the petitioners submitted their applications from the year 1980 to 1984 for grant of pension under the Scheme. However, they were sanctioned

pension in the years 2003 and 2004 i.e., from the date of sanction of pension by the authority. The petitioners' claim was considered in relaxation of the normal eligibility and evidentiary requirements of the Scheme. The pension in these cases was sanctioned without any acceptable record based primary or secondary evidence prescribed under the Scheme, such as, production of the jail certificate from the concerned authority etc., but only basing on personal knowledge, pension was sanctioned from the date of approval of the sanctioning authority in conformity with the uniform policy where pension was sanctioned by giving benefit of doubt. The State Government had also not given any recommendation based on any official records. The cases of the petitioners were recommended based only on the personal knowledge certificates of other freedom fighters. Admittedly, the petitioners have produced only the personal knowledge certificates from the other freedom fighters. They have not produced any primary or secondary evidence in the form of jail certificates from the concerned authority. In the absence of the same, it cannot be said that the petitioners are entitled for sanction of pension from the date of application. Therefore, they are not entitled for pension from the date of the application. Though the respondents have filed a counter affidavit stating that the pension to the petitioners was granted by extending benefit of doubt, no reply has been filed by the petitioners to show that they have satisfied the criteria

as per the regulation for grant of pension from the date of application. As such, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

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**P. KESHAVA RAO, J**

Date: 02.11.2018.  
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