

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.20504 OF 2006

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondents in not considering the applications of the petitioners for grant of pension under Swatantra Sainik Samman Pension Scheme, 1980 (for short 'the Scheme'), as illegal and arbitrary.

All the petitioners are freedom fighters. They fought against the Nizam Rule and participated in the freedom movement during 1947-48 for liberation of the Nizam State and its merger into Indian Union. In that process, they went under ground camps in the year 1947-48 represented by camp in-charges of respective camps. The 1st petitioner worked under the leadership of Sri Vattikonda Kotaiah camp in charge of Machinenipalem, 2nd and 3rd petitioners worked under the leadership of Sri Yachavarapu Varadareddy of Peddaram camp.

The grievance of the petitioners is that though they had submitted applications in the month of December, 1997 for sanction of pension under the Scheme, no action has been taken thereon. They had submitted another application in the year 2003. Earlier, they had filed W.P.No.7661 of 1998 and the same was disposed of on 24.08.1998 stating that "by the time

since a special screening committee ceased to exist with effect from 31.12.1997 and the applications would be considered strictly in accordance with the scheme.” Neither their applications were considered nor enquiry was conducted so far by the respondents. Hence, the present writ petition is filed.

The 1st respondent filed counter-affidavit stating that as per the available records of the respondents, no such applications were submitted by the petitioners nor forwarded by the State Government and hence, it cannot be ascertained whether they participated in the freedom struggle and they had fulfilled all the eligibility conditions of the Scheme. Further, it is stated that petitioners had applied for pension in 1997, after a long time of commencement of Scheme, which itself creates a doubt as to the genuineness of the claim of the petitioners. The petitioners have not followed proper procedure in accordance with the Scheme in submitting their applications. Since the applications of the petitioners were not received through the State Government, their claim cannot be considered to be a legitimate claim.

As per Scheme, the applicant along with application has to furnish the documents in order to prove his claimed

sufferings for grant of pension under the Scheme, which read as follows:

(a) in case of imprisonment a certificate from the concerned jail authority, District Magistrate or the State Government indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release.

(b) In case the records of the relevant period are not available with the State Government, a Non-Availability of Records Certificate (NARC) in prescribed format from the concerned State Government is required along with two Co-Prisoner Certificates (CPC) from freedom fighters who had a proven jail suffering of minimum 1 year and who were with the applicant in the jail for a minimum period of six months. In case the certifier happens to be a sitting M.P or MLA or Ex.M.P/MLA only one Co-Prisoners' Certificate in place of two is required.

(c) For claims of underground suffering, documentary evidence by way of Court's/Government's order proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention. Where records of the relevant period are not available, a Non-Availability of Records Certificate (NARC) from the concerned State Government along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail suffering of minimum two years and who happened to be from the same administrative unit, is required.

(d) For claims of internment or externment, orders issued by the competent authority from the official records. In the absence of official records, a Non-

Availability of Records Certificate (NARC) from the concerned State Government along with a certificate from prominent freedom fighters who had themselves undergone suffering of imprisonment for two years or more.

(e) In case of confiscation and sale of property, orders of dismissal or removal from service for taking part in the National Freedom Struggle, orders of the competent authority is required.

(f) For claims of permanent incapacitations:

(i) Certificate from the District Magistrate stating that permanent incapacitation was done by bullet injury/lathi charge sustained during participation in the National Freedom Struggle.

(ii) Medical certificate from the Civil Surgeon in support of the handicap.

(g) For claims of punishment of 10 strokes of caning/flogging/whipping, copies of orders passed by the competent authority from the official records.

(h) For claims of martyrdom, evidence from official records or newspapers of the relevant time in support or killed in action or in detention etc.

(IV) The claims of Samman Pension can be considered by the Central Government only when these are duly verified and recommended by the State Government/U.T. Administrations concerned along with the basis of such recommendations in accordance with the provisions of the Scheme. No action is, therefore, possible on the applications sent directly to the Central Government without routing through the State Government/U.T Administration concerned. As per the scheme, the verification and recommendation report is required in view of the fact that the documents and other evidences of the claims are in the possession of the

State Government/U.T. Administrations and not of the Central Government.

V. Persons who consider themselves eligible for Samman Pension under the Scheme and desire the Samman Pension, should apply in duplicate on the prescribed application form. The application, duly filled in, and supported with required documents as proof of claim of suffering, should be sent to the Chief Secretary of the concerned State Government/Union Territory Administration. A copy of such application should be sent to the Deputy Secretary to the Government of India, Freedom Fighters Division, Ministry of Home Affairs, New Delhi as an advance copy. "However, claims can be processed by the Central Government only on receipt of verification & Entitlement to pension report from the State Government/UT Administration concerned."

It appears that the petitioners have not sent their applications along with the documents as required under the Scheme to process their applications through the State Government to the Central Government.

In the facts and circumstances of the case and the averments made in the counter-affidavit as to the scheme and the requirements to be fulfilled for claiming pension, this Court is of the considered view that liberty may be granted to the petitioners to make fresh applications as per scheme along with requisite documents.

Hence, the Writ Petition is disposed of giving liberty to the petitioners to submit fresh applications along with the required documents as per Swatantra Sainik Samman Pension Scheme, 1980, through the State Government to the Central Government. No costs.

Miscellaneous petitions, if any, pending shall stand dismissed.

JUSTICE M.GANGA RAO

7th March, 2018
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