

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.12195 of 2013

ORDER:

Heard the learned counsel for the petitioner as well as the learned Additional Standing counsel appearing for the 1st respondent.

The prayer sought in the writ petition is as under:

“... to issue writ or direction preferably writ of mandamus declaring the order issued by the respondent No.1 vide Proc.No.112/8056/97-FF(HC) dated 25.07.2011 as illegal, arbitrary, contrary to record and violative of principles of natural justice and consequently set aside the said order and further direct the respondent No.1 to grant pension in favour of the petitioner from the date of application made by her husband ‘under Swatantra Sainik Samman Pension Scheme, 1980’.”

The case of the petitioner is that her deceased husband was a freedom fighter fought against the Nizam Government for its merger into Union of India during 1947-48. The Government of India formulated a scheme, namely, Swatantra Sainik Samman Pension Scheme, 1980 (for short, “the Scheme”), to provide financial assistance to the freedom fighters and their families. Pursuant thereto, the petitioner’s husband applied for grant of pension complying with the necessary conditions as per the Scheme in the year 1997. When the application was pending consideration, her husband died on 12.03.2010. Subsequently, she came to know that the Screening Committee has approved the application of her husband for sanction of pension as per the Scheme. Thereafter, she applied for continuation of the proceedings. Once again, verification was conducted and recommended the petitioner’s claim for pension.

While matter stood thus, the 1st respondent issued the impugned proceedings dated 25.07.2011 rejecting the petitioner’s

claim on the ground that the pension of Camp In-charge was suspended and PKC/CFCs Certifiers have made vague unverifiable statements without giving specific details of the case/authority which led to the claimant for going underground sufferings in a border camp. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner strenuously contended that since the application of the petitioner has been received by the respondents, they ought to have granted pension to her.

The 1st respondent filed a detailed counter affidavit, wherein it is stated that the Personal Knowledge Certificate and Co-Freedom Fighter Certificate produced by the petitioner are not consistent with the guidelines issued by the concerned Ministry vide letter No.112/8/2008-FF(HC) dated 10.09.2009. Even the recommendation made by the State Government is based on supporting documents, which are not consistent with the mandatory requirements contained in guidelines issued by the Government of India. Therefore, the claim of the petitioner was rejected. It is also mentioned in the counter affidavit that the petitioner has not produced the mandatory camp in-charge certificate in the requisite format necessary for consideration of her claim. Similarly, the PKC/CFCs indicating specific details of the cases, authority as per the requirement where camp in-charge is no longer alive apart from other aspects.

Having heard both the counsel and from the perusal of the material on record, it is revealed that under the Scheme, the Central Government has framed guidelines, which are mandatory

for grant of pension. Until and unless the applicant complies with the said guidelines, it cannot be said that the petitioner is entitled for the freedom fighters' pension.

In the case on hand, the camp in-charge, where the husband of the petitioner underwent sufferings, expired long back. However, the personal knowledge certificate and the co-freedom fighter's certificate produced by the petitioner do not indicate the specific details of the case and authority for which her husband underwent sufferings. Therefore, in the light of the objections raised by the 1st respondent, this Court is of the opinion that there is no irregularity or illegality in the impugned orders. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, liberty is given to the petitioner to submit all the documents in the requisite formats in compliance with the guidelines framed under the Scheme. On such application, the respondents are directed to consider the same afresh as per law and pass appropriate orders. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 19.11.2018.
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