

THE HON'BLE SRI JUSTICE P.KESHA VA RAO

WRIT PETITION No.34375 OF 2012

ORDER:

Heard the learned counsel for the petitioner, learned Additional Standing Counsel appearing for the first respondent and learned Government Pleader appearing for the second respondent.

The prayer sought for in the writ petition is as under:

“to issue writ or direction preferably writ of mandamus declaring the letter No 112/3903/84-FF(HC) dt.7-12-2011 issued by the respondent no. 1 rejecting the claim of the petitioner for grant of pension under “Swatantrata Sainik Samman Pension scheme-1980” despite re-verification report sent by the respondent no. 2 vide Letter no. 017418/FF-111/2011 dt. 27-6-2011 as illegal, arbitrary, contrary to record, discriminatory and violative of principles of natural justice and consequently set aside the same and further direct the respondent no. 1 to grant pension in favour of the petitioner from the date of her application.”

The case of the petitioner is that she is the wife of a freedom fighter, who fought against the Nizam Government for its merger with the Union of India during 1947-48. Since the Government of India formulated a scheme namely ‘Swatantrata Sainik Samman Pension Scheme-1980’ to provide financial assistance to the freedom fighters and their families, the petitioner applied for grant of pension in the year 1984 vide file No.112/3903/84. The respondent No.1 after thorough verification issued letter dated 24.05.2005 directing the petitioner to send identifications i.e. descriptive rolls, specimen signatures and names of eligible dependents and photographs for the purpose of release of

pension. Accordingly, the petitioner has sent the relevant documents. However, instead of granting pension, respondent No.1 sought re-verification. Pursuant thereto, respondent No.2 conducted re-verification through the District Collector, Warangal and sent a report dated 01.05.2009 along with check list in the year 2009 itself. Thereafter there was no action by respondent No.1. However, by the impugned proceedings dated 07.12.2011, respondent No.1 rejected the claim of the petitioner holding that her request is not found to be acceptable. Aggrieved by the same, the present writ petition is filed.

The learned counsel appearing for the petitioner contended that it is for the respondents to verify the period for which, the husband of the petitioner suffered at the Border Camp. The petitioner is not in a position to collect the information from the authorities.

The learned Additional Standing Counsel appearing for the Central Government would submit that though the petitioner has not placed any evidence to the effect that her husband suffered in a Border Camp for more than six months, still the State Government recommended the case of the husband of the petitioner as a Border Camp sufferer. Therefore, the recommendation of the State Government is not acceptable. It is also brought to the notice of this Court by the learned Additional Standing Counsel that as per Clause 2.2 of the salient features of Swatantrata Sainik Samman Pension Scheme, 1980, a person who had suffered minimum imprisonment of six months on account of participation in freedom

struggle, subject to furnishing of the evidence mentioned therein, is entitled for pension. Clause 2.3 of the said features contemplates that a person, who, on account of his participation in freedom struggle, remained underground for more than six months and declared as a proclaimed offender; or on whom, an award for arrest was announced is entitled for pension. In the explanation, it is mentioned that voluntary underground suffering or self-exile suffering for party work under command of the party leaders, are not covered as eligible sufferings for pension under the Central Scheme. Based on the same, the learned Additional Standing Counsel for Central Government submits that since there is no mention with regard to the period of suffering by the husband of the petitioner, recommendation of the State Government was not acceptable.

Having heard both the counsel and from the perusal of the material on record, it is seen that the Central Government while granting pension under the Swatantrata Sainik Samman Pension Scheme, 1980, framed certain guidelines making the applicants eligible for grant of pension. As far as the imprisonment as well as sufferings in a Border Camp is concerned, unless and until the period of suffering has been placed on record by the concerned authority, respondent No.1 is not expected to consider the claim of the applicant for the purpose of grant of pension. In the case on hand, respondent No.1 in the impugned proceedings had categorically mentioned that the petitioner has not made any specific claim of period of suffering by her husband in a Border

Camp, but still the State Government has recommended the case of petitioner for grant of pension under the said Scheme. Therefore, the said recommendation of the State Government was not accepted and the claim of the petitioner has not been found acceptable for grant of pension. In the light of the prescribed procedure followed by respondent No.1, this Court is of the opinion that the claim of the petitioner cannot be considered since the petitioner has not specifically mentioned the period of suffering in a Border Camp by her husband. In that view of the matter, this Court does not find any irregularity or illegality in the impugned proceedings issued by respondent No.1.

Accordingly, the Writ Petition is dismissed. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHA VA RAO,J

19th NOVEMBER 2018.

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