

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 1797 of 2012 (O&M)

Date of decision: 17.07.2018

Chajju Ram (since deceased) through LRs

...Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S. Dinarpur, Advocate for the petitioner(s).

None for respondent Nos.1 & 2.

Jitendra Chauhan, J. (Oral)

CM-2270-CWP-2013

Keeping in view the averments mentioned in the application, the same is allowed subject to all just exceptions. The legal heirs of the petitioner as mentioned in para No.2 of the application are brought on record. Amended memo of parties is taken on record.

Main Case

By way of the instant writ petition, the petitioners seek quashing of decision dated 11.01.2012 (Annexure P-14) vide which the claim of petitioner Chajju Ram (since deceased) has been rejected by respondent No.2 in violation of order dated 16.09.2010

(Annexure P-4) passed by this Court.

Learned counsel for the petitioners states that vide order dated 30.12.2010 (Annexure P-5) the State Government admitted the claim of the original petitioner and has allowed pension to him in the category of freedom fighter, however, his claim has not been allowed by respondent No.1. He further states that the case of the petitioner is squarely covered by judgment of this Court rendered in CWP No. 12309 of 2009, decided on 16.09.2010, titled as **Chhajju Ram** Vs. **Union of India and others** (Annexure P-4).

There is no representation on behalf of the respondents.

Heard.

This Court in Chhajju Ram's case (supra) observed as under:-

“[8]. There can indeed be no doubt that the freedom fighter's pension is more a matter of honour than of monetary benefit. Those who made sacrifices for the liberation of our nation and underwent unbearable torture and atrocities at the hands of the suppressors did not do so in expectation of any monetary gains. None of them went kneeling before the Central Government seeking pension or any other financial assistance. The 'pension scheme' is a very small attempt to honour and acknowledge the sacrifices made by the unsung heroes of the freedom movement. The Scheme, therefore, puts the authorities under an onerous duty to find out that not even a single freedom fighter is deprived of this little honour, which, in this era of inflation is nothing more than a lip-service.

[9]. Notwithstanding the avid object of the Scheme, it is unfortunate that Swantarta Sainik Samman Pension Samiti which

proclaims itself to be a 'representative' of the freedom fighters has been found indulging in a typical colonial fashion and compelling the old and crippled claimants to appear before it, lead their evidence, prove the veracity of the affidavits/secondary evidence, produce their witnesses and run the risk of getting a verdict of masqueraders. The manner and method adopted by the Samiti to verify the claims is highly deplorable and is deprecated. The Samiti acts for and on behalf of the State Government and has State apparatus including the District Administration at its command for the verification of the scattered pieces of evidence which the old persons like the petitioner who at the fag end of their life are made to collect and produce to support their claim. Why a Deputy Commissioner or Sub Divisional Officer [Civil] is not being asked to visit the permanent abode of the witnesses sought to be relied upon by a freedom fighter and verify the genuineness or veracity of the affidavits or other relevant documents?

[10]. Adverting to the case in hand, the certificate [Annexure P-1] unequivocally establishes that the petitioner was subjected to one year's detention on 27.3.1945 and he remained lodged in Mianwali and Karnal Jails before he was released on 26.01.1946. The certificate further shows that the petitioner was imprisoned as he 'disobeyed' the Commanding Officer his superior officer 'while posted at Command B-TRG Battalion – 14 Punjab Regiment Centre, Ferozepur'.

[11]. Having proved his imprisonment during the British regime for disobeying the orders of superior authority, the only query to be responded by the petitioner is as to what was the cause of his disobedience. In order to complete the chain of events, the petitioner has brought on record the affidavits of his two co-prisoners who are admittedly recognized freedom fighters. Both of them have categorically deposed that the petitioner participated in the Indian Freedom Movement and revolted against the British regime.

[12]. Though there is not even an iota of evidence to prove

to the contrary, nevertheless the Samiti has rejected the petitioner's claim on hyper technicalities. If the affidavits of two proven freedom fighters are to be disbelieved or brushed aside with just the wave of a hand, does it not obligate the respondents to explain as to whether the pension scheme is meant to honour the freedom fighters or to insult them?

[13]. In order to make out a case of discrimination, the petitioner cited the instances of Sarv Shri Sarupla of District Rohtak and Tara Chand of District Patiala to whom identical jail certificates like the one relied upon by the petitioner were issued and they have been granted the freedom fighters' pension on the basis of affidavits of their co-prisoners. Having found no valid or rational basis to distinguish the petitioner's case, the Samiti has adopted a novice method to reject his claim on the plea that the 'freedom fighters' who deposed in favour of Sarv Shri Sarupla and Tara Chand were different than those who have deposed in favour of the petitioner.

[14]. At this stage, a reference to the 'pension scheme' may also be made to highlight that it enables a freedom fighter to seek pension by producing 'primary' or 'secondary' evidence. Clause 2.2[b] of the 'Pension Scheme' reads as follows:-

“In case records of the relevant period are not available, the secondary evidence in the form of 2 co-prisoner certificates [CPC] from freedom fighters who have proven jail suffering of minimum 1 year and who were with the applicant in the jail could be considered provided the State Government/Union Territory Administration concerned, after due verification of the claim and its genuineness, certifies that documentary evidences from the official records in support of the claimed sufferings were not available. In case the certifier happens to be a sitting or Ex.MP/MLA, only one certificate in place of the two is required”. [Emphasis applied].

[15]. It necessarily implies that even in the absence of the Jail Certificate, the petitioner would have been eligible to claim the pension by producing the affidavits of two freedom fighters in his favour. The liberal and pragmatic approach contemplated by the Scheme too has been thrown to winds by the Samiti while

rejecting the petitioner's claim.

[16]. For the reasons afore-stated, the writ petition is allowed; the impugned proceedings dated 29.01.2009 [Annexure P-16] and the order dated 18.02.2009 [Annexure P-17] are hereby quashed and the State of Haryana is directed to grant the status of 'freedom fighter' to the petitioner and release the due pension to him besides recommending his case to the Union of India for the grant of freedom fighter's pension by the Central Government. This shall, however, be subject to the liberty to the State Authorities to verify the genuineness of the affidavits given by the co-prisoners of the petitioner, if so desired within a period of one month on receipt of a certified copy of this order.

[17]. Disposed of. Dasti."

Keeping in view the fact that the State Government has already admitted the claim of the original petitioner and as the genuineness of the affidavits furnished by co-prisoners, namely Sarv Shri Bansi Lal Sharma and Amar Nath are fully established as held in case of Sarv Shri Sarupla of District Rohtak and Tara Chand of District Patiala reflected in para 13 of the judgment (Annexure P-4), the present petition is allowed in terms of **Chhajju Ram's** case (supra). Respondent No.1-Union of India is directed to consider the case of the petitioners in the light of **Chhajju Ram's** case (supra) and release the admissible benefits, within a period of three months from the date of receipt of a certified copy of this order.

17.07.2018

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No