

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 21080 OF 2010

ORDER:

This writ petition is filed challenging the action of the 1st respondent in issuing proceedings vide Proc.No.112/5054/97-FF(HC), dt.10.07.2009, rejecting the claim of the petitioner for grant of freedom fighters pension and for a consequential direction to the respondents to grant pension to the petitioner under Swatantra Sainik Samman Pension Scheme, 1980, in the light of re-verification report sent by the Government of A.P. vide letter dt.31.03.2008.

The case of the petitioner is that he is a freedom fighter and fought against the Nizam Government for its merger into Union of India; that in that process he had participated in the freedom movement during 1947-48 along with eminent leaders Sri Vinayakaraao, Vidyalkar and Nachipalli Madhava Rao etc. and also worked under the camp in-charge of Sri K.V.Keshavulu (Ballarsha and Chanda camps); and that he had participated in Satyagraha movement against Rajakars again and had also sustained injuries when the police applied force in the Sultanbazar area. While so, the Government of India had formulated a scheme namely "Swatantra Sainik Samman Pension Scheme-1980" to provide financial assistance to the freedom fighters; that accordingly the petitioner applied for pension in the year 1997 and his name was included in the list vide file No.112/5054/97; and that as there was no response, again the petitioner had submitted another set of application in the year 2002. Subsequently, the District Collector, Hyderabad, had sent report dt.29.02.2008 in revised check list with

enclosures to Government of A.P., in turn, the said re-verification report was forwarded on 31.03.2008 to the respondent No.1 recommending the petitioner's case for sanction of freedom fighters pension under the above scheme duly enclosing necessary verified documents. But, without verifying the said recommendations of the 2nd respondent and other documentary evidence produced by the petitioner, the 1st respondent issued impugned proceedings dt.10.07.2009, rejecting the case of the petitioner for grant of pension under the aforesaid scheme. Aggrieved by the same, present writ petition is filed.

The 1st respondent filed counter affidavit stating that since the petitioner has not produced any evidence from official records to support his claim, petitioner case was not admitted and that the personal knowledge certificate produced by him were scrutinized by the Screening Committee and based on their personal knowledge, they have recommended for rejection of the case. It is also stated that on receipt of the re-verification report from the Government of Andhra Pradesh, the petitioner's case was examined and it has found that specific period of suffering has not been indicated by the certifiers; and that the age proof has also not been confirmed from the relevant records by the State Government. It is further stated that inspite of these shortcomings, petitioner's case was placed before the Committee of Eminent Freedom Fighters in its meeting on 24.06.2009; and that the Committee after due scrutiny of relevant records of the case and based on the personal knowledge of the members of the Committee, has not recommended the case of the petitioner for sanction of pension and rejected the case vide letter dt.10.07.2009.

The 2nd respondent filed counter stating that on receipt of the re-verification report from the Government of Andhra Pradesh, the petitioner's case was examined and found that specific period of suffering has not been indicated by the certifiers; that age proof has also been not confirmed from the relevant record by the State Government; that inspite of these shortcomings, the case was placed before the Committee of Eminent Freedom Fighters in its meeting on 24.06.2009; and that the Committee after due scrutiny of relevant records of the case and based on the personal knowledge of the members of the Committee, has not recommended the case for sanction of pension. Therefore, petitioner's claim was rejected vide 1st respondent's letter No.112/5054/97-FF (HC), dated 10.07.2009.

It is further stated that it has been held by this Court in WA.No.175/07 in the matter of *Union of India v. Panjala Rajaiah* vide order dated 20.02.2007 that a positive recommendation from the State Government does not substitute the eligibility conditions and evidentiary requirements of the Scheme and is not binding on the Central Government if the requirements prescribed under the guidelines and the Scheme are not satisfied; and that the claim of the petitioner was examined as per the prescribed policy guidelines and has been rejected.

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue and Sri G.Praveen Kumar, learned Standing Counsel for respondents 1 and 3.

In this case it is to be seen that firstly the impugned order is bereft of reasons. On the sole ground itself the impugned order is liable to be set aside. It is no doubt true that the recommendations made by the State

Government are not binding on Central Government. The counter affidavit filed by the 2nd respondent goes to show that they have once again recommended the case of the petitioner vide letter No.014544/FF-III/2011, dated 27.06.2011. When positive recommendation is made by the State Government for grant of Freedom Fighter pension to petitioner, though it is not binding on Central Government, atleast some reasons are to be given for not accepting the same.

On that sole ground, this Court is of the opinion that the impugned proceedings are liable to be set aside. This Court has not expressed any opinion on merits of the matter.

Accordingly, the impugned proceeding dt.10.07.2009 is set aside and the 1st respondent is directed to reconsider the case of the petitioner by taking into account the Letter No.D1/4813/2010, dt.02.04.2011 addressed by the District Collector to the State Government which was forwarded by the State Government to the 1st respondent vide letter No.014544/FF-III/2011, dated 27.06.2011, in accordance with the scheme.

Writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.10.2019
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