

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 5427 OF 2014

ORDER :

Petitioner alleges that his claim for grant of Samman Pension under the Swatantrata Sainik Samman Pension Scheme, 1980 was rejected *vide* order dated 26.12.2013 of the 2nd respondent – Under Secretary to Government of India.

A perusal of the order dated 26.12.2013 discloses that the claim of the petitioner was rejected, initially, as far back as on 10.01.2007 on receipt of verification report from the erstwhile Government of Andhra Pradesh *vide* letter dated 18.10.2006. The petitioner challenged the same by filing Writ Petition No. 3730 of 2007 which was dismissed by a reasoned order on 28.03.2012 holding that the petitioner had failed to substantiate his claim and that the records also do not support his claim. It is further asserted that the petitioner filed yet another Writ Petition No. 12634 of 2012 challenging the report dated 08.02.2010 of the Government of Andhra Pradesh, which recommended his case to the Union of India for rejection on the ground that he had not submitted any documentary evidence. While the said Writ Petition is pending, the 2nd respondent *vide* order dated 08.01.2014, again, rejected his case. Hence, this Writ Petition.

A counter-affidavit was filed on behalf of Respondents 1 and 2 raising preliminary objection as to the maintainability of the Writ Petition the second time. It is asserted that the decision to reject the claim is based on the recommendations of the Hyderabad Special Screening Committee. It is further averred that as per the

scheme, mere claim by the petitioner that he was issued arrest warrant is not sufficient for grant of pension and that he is required to produce the documentary proof by way of government or court's order to comply with either of the three conditions viz. i) he has to be a proclaimed offender, ii) he is one on whom an award for arrest or on head was announced, or iii) he is one for whose detention, an order of arrest was issued but not served. It is specifically asserted that these aspects are absent in the case of the petitioner. Though the petitioner had claimed that a direction was issued by the Nizam Government for his arrest, no material evidencing the same has been produced. It is also further asserted that all the persons, who have participated in the freedom struggle, are not eligible and the scheme 'SSSP', 1980 is only for the persons, who satisfy the eligibility criteria. Hence, the petitioner is not entitled for the relief claimed in this Writ Petition.

Learned counsel for the petitioner submits that the respondents ought to have considered the fresh material submitted by the petitioner. He relies on the judgment of the Supreme Court in ***Gurdial Singh v. Union of India***¹ and asserts that the standard of proof required to be exercised while examining the claims of the persons involved in freedom struggle is not the same as is required in a criminal case or in a case adjudicated upon rival contentions or evidence of parties.

Heard learned Standing Counsel for the Central Government.

¹ (2001) 8 SCC 8

Having regard to the respective submissions, apart from the technical objection, which has been raised, on account of the principles of *res judicata*, facts also do not support the case of the petitioner. It may be noted that though the recommendations of the State Government may not be binding on the pension sanctioning authority, in the case on hand, even the State Government recommendations do not support the case of the petitioner.

In this factual background, the judgment of the Supreme Court cited by the petitioner has no application and there being no merit on facts, the rejection of the claim of the petitioner cannot be found fault. The Writ Petition is therefore, liable to be dismissed for the technical reason of *res judicata* and it is accordingly, dismissed. No costs.

The miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

3rd December 2019

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