

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 22230 of 2010

ORDER:

This writ petition is filed challenging the action of the respondent in granting pension to the petitioner under 'Swatantra Sainik Samman Pension Scheme-1980' from 12.02.2008 instead of granting the same from the date of application.

Since the 1st petitioner died, his wife is impleaded as 2nd petitioner on 16.03.2012 and she is receiving the family pension.

Learned Counsel for the petitioner submits that the petitioner is entitled for freedom fighters family pension from the date of application, but, the respondents issued proceedings dt.12.02.2008, granting freedom fighters pension to the petitioner from 12.02.2008. If it is to be from the date of approval, respondents have to record reasons for not granting pension from the date of application. But, no reasons are stated in the said order for granting pension only from the date of approval. It is also stated by the petitioner in the writ affidavit that when one similarly situated person **Pillalamarri Narayana, S/o.Laxmaiah**, who is of the same village worked in the same camp, applied along with the petitioner, he was granted pension from the date of his application i.e. 23.10.1997, whereas petitioner was granted pension only from the date of approval without any valid reasons.

On the other hand learned Standing Counsel for respondents basing on the counter affidavit submits that the respondents granted pension to the petitioner by liberalising the conditions for grant of freedom fighters pension. He also submits that the respondents granted

pension to the petitioner from the date of approval on the ground of benefit of doubt instead of rejecting the claim of the petitioner for grant of pension and the same cannot be faulted. He further submits that the Honourable Division Bench of this Court in Writ Appeal No.315 of 2012 (*Union of India v. Yelmareddy Suryamma and another*) rendered Judgment modifying the impugned order of the honourable Single Judge and directed the authorities to go on making the payment from the date of order and not from the date of application made by the writ petitioner therein.

The respondent also relied on several Judgments rendered by the Supreme Court in the counter affidavit which reads as follows;

i. Union of India v. K.Indrasena reddy & another (in SLP (C) No.22520/2005 through Appeal (Civil) No. 1915/2007, dt.02.04.2007)

ii. C.Venkat Reddy and others v. Union of India and others (in Writ Petition (Civil) No.403 of 2006, dt.08.05.2009)

iii. State of Maharashtra and others v. Raghunath Gajanan Waingankar (2004(6) Scale 478, Appeal (Civil) No.995 of 2004, dt.06.08.2004)

iv. Gurdial Singh v. Union of India [(2001) 8 SCC 8]

v. State of Orissa v. Choudhuri Nayak [AIR 2010 SC 3588] (In Civil Appeal No.6818 of 2010 arising out of SLP (C) No.22277/2004, dt.20.08.2010)

vi. Mukund Lal Bhandari v. Union of India [AIR 1993 SC 2127]

vii. Union of India v. Ganesh Chandra Dolai [(1997) 10 SCC 289]

viii. Union of India v. M.R.Chelliah Thevar (C.A.No.7762/96, decided on 30.04.1996)

ix. Government of India v. K.V.Swaminathan [(1997) 10 SCC 190]

x. Union of India v. Kaushalya Devi
[(2007) 9 SCC 525]

It is to be seen that there is no dispute regarding the principle that the respondents can grant pension from the date of approval on the ground of benefit of doubt by relaxing conditions. But, no such reasons are found in the order dt.12.02.2008 issued by the respondent for rejecting the case of the petitioner for grant of freedom fighters pension from the date of application. More so, there is no answer in the counter affidavit for the assertion made by the petitioner regarding granting of pension in respect of similarly situated person one **Pillalamarri Narayana, S/o. Laxmaiah**, from the date of application. The order dt.12.02.2008 passed by the respondent is bereft of reasons and the same cannot be supplemented by way of affidavit.

In view of the same, without expressing any opinion on merits of the case, this Court directs the respondent to re-consider the case of the petitioner only to the extent of grant of pension from the date of application.

To the extent indicated above, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending shall stand disposed of. No order as to costs.

A.RAJASHEKER REDDY, J

13.11.2019
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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11767 of 2019

13.11.2019

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