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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 457/2019**

GULAB SINGH

..... Petitioner

Through: Mr Vimal Wadhawan, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Vikas Mahajan, CGSC with Mr S. Sampath, GP for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.01.2019

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondents to recognise the contribution of Sh Dal Chand as a freedom fighter under the Swatantra Sainani Samman Pension Scheme (hereafter 'the SSS scheme') as well as under the Uttar Pradesh Public Services (Reservation of Physically Handicapped, Dependents of Freedom Fighters and Ex-servicemen) Act, 1993. In addition, the petitioner also prays that directions be issued to the respondents to grant arrears of pension payable to Sh Dal Chand. The petitioner is the son of late Sh Dal Chand. The petitioner claims that Sh Dal Chand was a freedom fighter, and had participated in the Arya Samaj Movement in 1938-39. He had also fought for merger of the erstwhile State of Hyderabad into the Union of India.

2. Late Sh Dal Chand was awarded a sentence of one year rigorous imprisonment by Vaigapur Criminal Court on 4th Sharewar, 48 Fasli year (i.e. 04.10.1939). He was thereafter imprisoned at Aurangabad Central Prison to undergo the sentence, but, was released from prison on 10th Mehar, 48 Fasli year (i.e. 10.11.1939) on account of general amnesty declared by the Nizam of Hyderabad.

3. Sh Dal Chand expired on 27.03.1986. Admittedly, during his life time he did not apply for pension under the SSS Scheme. The petitioner states that after the demise of late Sh Dal Chand, his widow Smt Javitri Devi (the petitioner's mother) applied for grant of pension. Smt Javitri Devi expired on 11.02.1999.

4. The present petition is premised on the basis that after the application of Late Smt. Javitri Devi was rejected, respondent no.1 had granted pension to other freedom fighters, who were similarly placed as petitioner's father. The learned counsel appearing for the petitioner also referred to the decision of the Coordinate Bench of this Court in ***Ram Dulari v. UOI and Ors.: W.P.(C) 2208/2002 decided on 29.09.2005***, wherein this Court had in peculiar facts and circumstances of that case held that, a refusal to grant relief would amount to discrimination. Admittedly, pension under the SSS Scheme is available to freedom fighters who had undergone imprisonment of six months or more. Apparently, in the said case, the petitioner contention that freedom fighters who had been sentenced to imprisonment for a period in excess of six months were also eligible for the pension, notwithstanding that they did not undergo the said period of sentence, was accepted

5. This Court is of the view that no relief can be granted to the petitioner. First of all, the petitioner has no locus to seek pension under the

SSS Scheme. The said pension is available only to freedom fighters and, on their demise, to their spouses. The contention that the petitioner acquires an inheritable right to the arrears of such pension is unmerited. More importantly, the present petition is hopelessly barred by limitation. The present petition has been filed almost 20 years after the demise of the petitioner's mother and almost 34 years after the demise of late Sh Dal Chand.

6. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

JANUARY 21, 2019/pkv