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

+ W.P.(C) 584/2019

DINESH KUMAR

..... Petitioner

Through: Mr Vimal Wadhawan, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Vikas Mahajan, CGSC with Mr S. Sampath, CG 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 the respondents to recognise the contribution of Shri Babu Lal Sharma as a freedom fighter under the Swatantra Sainani Samman Pension Scheme (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 the pension in respect of Shri Babu Lal Sharma, and the same be paid to the surviving heirs.
2. The petitioner is a son of Shri Babu Lal, who claimed to be a veteran freedom fighter. The petitioner states that Shri Babu Lal participated in Arya Samaj Movement of 1938-39 and fought for the merger of the erstwhile State of Hyderabad, into the Union of India.

3. Shri Babu Lal expired in February, 1979. Admittedly, during his lifetime, he had not applied for any pension under the SSS Scheme, which was introduced sometime in the year 1972. After his demise, his widow Smt. Shiv Devi (the mother of the petitioner) applied for grant of freedom fighter pension under the SSS Scheme.
4. According to the petitioner, the Superintendent, Central Prison, Aurangabad issued a certificate dated 10.05.1988 confirming that Shri Babu Lal was sentenced to one year rigorous imprisonment on 4th sharewar 48 fasli year (i.e. 04.10.1939) and he was subsequently released on 10th mehar, 48 fasli year (i.e. 10.11.1939).
5. On 18.04.2002, respondent no. 1 informed the petitioner's mother that her application for grant of pension under the SSS Scheme was rejected, as Shri Babu Lal had suffered imprisonment of approximately 1 month, which was less than the period of six months as required under the eligibility criteria specified under the SSS Scheme.
6. The said order was not challenged by Late Smt. Shiv Devi during her lifetime. She expired on 11.05.2011.
7. The petitioner has now approached this Court after almost seventeen years after of his mother's application for pension was rejected and now seeks arrears of the same.
8. The present petition is premised on the basis that after the application of Late Smt. Shiv 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 the

peculiar facts and circumstances of that case, held that a refusal to grant relief would amount to discrimination.

9. This Court is of the view that the relief as prayed for cannot be granted for several reasons. First of all, the petitioner had no locus to seek pension under the SSS Scheme. The said pension was available only to the Freedom Fighters and, on their demise, to their spouses. The petitioner being his son is not be entitled to the said pension. The said pension was granted to the Freedom Fighters or their widows and the petitioner's case that he acquired an inheritable right is unmerited. Second, this Court is of the view that the petition is hopelessly barred by limitation. The request for grant of pension made by the petitioner's mother has been denied way back on 18.04.2002 and the present petition has been filed almost seventeen years, thereafter.

10. The petition is, accordingly, dismissed.

11. It is clarified that the petitioner is not precluded from claiming benefits under the Uttar Pradesh Public Services (Reservation of Physically Handicapped, Dependents of Freedom Fighters and Ex-servicemen) Act, 1993, and the dismissal of the present petition would not preclude the petitioner from claiming the same, if he is otherwise so entitled.

VIBHU BAKHRU, J

JANUARY 21, 2019
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