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

+ **W.P.(C) 3644/2019**

KALAWATI

..... Petitioner

Through Mr Mahabir Singh, Senior Advocate
with Ms Preeti Singh, Mr Gagan Deep
Sharma, Ms Reena Singh, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr Bhagwan Swarup Shukla, CGSC
with Mr Mukesh Pandey, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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09.04.2019

CM APPL. 16735/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 3644/2019

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent nos. 1 and 2 (Under Secretary, Freedom Fighter Division) to grant Swatantrata Sainik Samman Pension to the petitioner from the date of the application made by Sh Chhuttan Lal – her late husband.
4. It is the petitioner's case that her husband, late Chhuttan Lal, was a freedom fighter and had participated in the Arya Samaj Satyagrah held in

the year 1938-39 in Hyderabad. It is stated that late Sh Chhuttan Lal was arrested by the State Police of the Nizam of Hyderabad on 05.06.1939 and was subsequently convicted. He was thereafter released on 17.08.1939.

5. Late Sh Chhuttan Lal is stated to have made an application in the year 1981 for grant of Samman Pension to him. The petitioner states that subsequently, her husband made representations to various authorities, however, his claim was not accepted. She states that by a letter dated 20.08.1987 the Government rejected his claim for the reason that the sentence undergone by him was less than six months.

6. Thereafter, the petitioner's husband made a representation to the District and Sessions Judge, Asifabad, Andhra Pradesh for supply of a detention certificate. However, the same was not granted. It was the petitioner's husband's case that he had been sentenced for a period of more than six months, but the sentence had been remitted. According to the petitioner, the said case was covered by the decision of the Supreme Court in ***Surja & Others v. Union of India : (1991) 4 SCC 366***. However, the said decision was rendered after the petitioner's husband's application had been rejected.

7. Late Sh Chhuttan Lal expired on 13.03.1995. Thereafter, the petitioner made a representation to the Director General, Andhra Pradesh Police, Hyderabad for supply of detention certificate in respect of her husband. She also made a representation for grant of Samman Pension. However, the petitioner's request for grant of Samman Pension was not acceded to.

8. Aggrieved by the same, the petitioner had filed a writ petition

(W.P. (C) No. 4184/1997), *inter alia*, praying that respondents be directed to grant Samman Pension to the petitioner with effect from 21.01.1994. It is stated that while the petition was pending, the petitioner received a communication dated 03.02.1988 from the Ministry of Home Affairs, informing the petitioner that the Central Government would consider the petitioner's case for grant of Swatantrata Sainik Samman Pension and called upon the petitioner to submit the necessary documents.

9. The writ petition filed by the petitioner was dismissed as withdrawn by an order dated 13.08.2002.

10. However, it is stated that the petitioner's claim was not accepted since the petitioner could not produce the secondary evidence by way of certificates given by two co-prisoners. It is stated that whilst the petitioner could obtain the certificate from one such co-prisoner (Shri Mam Chand) but another co-prisoner could not be located. However, it is stated that subsequently, the petitioner did manage to locate another co-prisoner, Sh Lajpat Rai son of Lekh Ram, and once again approached this Court by filing a writ petition (W.P. (C) 5109/2005).

11. The said petition was disposed of by an order dated 22.03.2005, directing the petitioner to file a fresh representation before the respondent within a period of four weeks and with a further direction to the respondent to consider the same and pass an appropriate order. The petitioner states that she made a representation to the respondent in terms of the order dated 22.03.2005 passed by this Court in W.P. (C) 5109/2005, which was rejected by an order dated 21.07.2005.

12. The relevant extract mentioning the reasons for which the

petitioner's representation was rejected are set out below:-

“4. Your claim has been examined as per the provisions of the Scheme, on the basis of documents furnished by you and the directions of the Hon'ble High Court. The following discrepancies/shortcomings have been noticed:

(i) In your representation dated 15.4.2005 you have not produced any documentary evidence from official records in support of the jail suffering of your late husband.;

(ii) You have furnished two CPC's, one from Shri Mam Chand and another from Sh. Lajpat Rai. However, none of the CPCs furnished by you is in the requisite format. Moreover, since you have not furnished a valid Non-availability of Records Certificate from the State Government, the CPCs provided by you cannot be considered,

(iii) Your husband has claimed jail suffering of 2 months and 12 days, whereas minimum six months' actual jail suffering is required to be eligible for grant of Samman pension. Since the claimed jail suffering is less than six months, your claim cannot be acceded to.

(iv) The State Government has not furnished their specific recommendation for grant of dependent family pension. In the absence of the specific recommendation of the State Government, you are not eligible for pension.

In view of the above, your claim does not fulfil the requisite eligibility criteria and evidentiary requirements of the Swatantrala Sainik Samman Pension Scheme, 1980.

Your claim for grant of dependent family pension under provisions of the Swatantrata Sainik Samman Pension Scheme, 1980 is, therefore, rejected.”

13. The list of dates filed by the petitioner indicates that she continued to make representations, periodically. The last such representation/letter sent by the petitioner was on 03.10.2014, which was addressed to the Chairman, Haryana Swatantrata Sainik Samman Samiti.

14. It is apparent from the above that the present petition is hopelessly delayed. The petitioner's claim for pension under the said scheme was rejected almost 14 years earlier and there is no credible explanation for the delay in approaching this court.

15. In this view, this Court does not consider it apposite to entertain the present petition.

16. The same is, accordingly, dismissed.

VIBHU BAKHRU, J

APRIL 09, 2019/pkv