

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.7296 OF 2014

Laxman s/o Rama Ghadge
Age : 85 yrs, Occu : Agri,
R/o. Ida, Tq. Bhoom,
Dist. Osmanabad

.. Petitioner

Versus

1. The State of Maharashtra
 2. The Collector,
Osmanabad, Dist. Osmanabad
 3. The Desk Officer
Freedom Fighters High Power Committee
General Administration Department,
Mantralaya, Mumbai -32.
- .. Respondents

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Advocate for the Petitioner : Shri A.S. More
AGP for Respondents No.1 & 2 : Smt D.S. Jape
Advocate for Respondent No.3 : Shri B.B. Kulkarni (absent)

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**CORAM : SUNIL P. DESHMUKH &
B. U. DEBADWAR, JJ.**

Date : 11-03-2020

ORAL JUDGMENT (PER: B.U. DEBADWAR, J.) :

1. Petitioner has filed this writ petition claiming following reliefs :

(i) The order dated 05-12-2012 passed by the respondent No.3 in File No. POS-1200/ OSMA/ Prakra.105/2000/Swasaika-2 may kindly be pleased to quash and set aside.

(ii) The respondents may kindly be directed to give all the benefits applicable to the underground freedom fighter scheme be awarded to the petitioner from the date of his application so also the government may be ordered to pay the arrears of pension.

2. Heard Mr A.S. More, learned counsel for petitioner and Mrs D.S. Jape, learned AGP for respondents no.1 and 2.

3. Mr A.S. More learned counsel for petitioner, relying on papers appended to the petition viz; true copy of judgment dated 27-07-2012 passed by division bench of this court in writ petition No.3122 of 2011, copy of order dated 05-12-2012 passed by respondent no.3 impugned in this writ petition along with true copy of the order passed by respondent no.3, which was subject matter of writ petition No.3122 of 2011 and true copy of the report based on proceeding sheet of meeting convened by District Honour Committee, Osmanabad on 18-06-1999, submitted that, petitioner had participated in a freedom movement during 1947-48 as underground freedom fighter. In the year 1998, he had moved application along with necessary documents to the District Collector, Osmanabad for grant of pension under "*Swatantrya Sainik Sanman Pension Yojana*" (hereinafter referred to as the 'Scheme'). In the year 1999, District Collector, Osmanabad forwarded proposal to

respondent no.3 for consideration. After lapse of about four years, respondent no.3 vide communication dated 29-01-2003 informed petitioner about rejection of his claim for benefits under the Scheme. Being aggrieved by that decision, petitioner had preferred writ petition No.3122 of 2011 and after hearing, division bench of this court vide judgment dated 27-07-2012 quashing and setting aside the same, remanded the matter to respondent no.3 for fresh decision in accordance with law within stipulated period. After hearing, respondent no.3 by impugned order again rejected claim of petitioner holding that, evidence adduced by him to substantiate the claim was not at all sufficient to grant pension. Therefore, petitioner has preferred present writ petition.

4. According to Mr A.S. More, learned counsel for petitioner, impugned order is incorrect, illegal and passed mechanically without considering the evidence on record and without following directions given by division bench of this court in aforesaid writ petition, therefore, requires to be set aside with direction to the respondents to grant the pension to the petitioner as he is entitled for the same.

5. Per contra, Mrs. D.S. Jape, learned AGP for

respondents no.1 and 2 argued that, neither copy of the affidavit of petitioner nor copies of affidavits of two freedom fighters are placed on record of writ petition. The impugned order sets out the grounds, on the basis of which, pension is declined to petitioner. In the absence of cogent evidence, only on the basis of vague pleadings raised in writ petition, the same cannot be allowed.

6. In the light of aforesaid submissions made at bar by learned counsel appearing for the respective parties, we have gone through the petition and papers annexed thereto. Upon going through the true copy of judgment dated 27-07-2012 passed by division bench of this court in writ petition No.3122 of 2011, it can be gathered that, the proposal of the petitioner for grant of pension under Scheme was accompanied by the affidavits of Hanmantrao Babarao Dhupe and Devidas Kisanrao Joshi, freedom fighters and report of District Honour Committee. Impugned order states that, alleged recommendation of District Honour Committee in forms 'A' and 'B', does not bear signatures of Chairman, Member Secretary and Members, therefore, the claim of the petitioner cannot be considered.

7. Report, based on proceeding sheet of the meeting of District Honour Committee, Osmanabad held on 18-06-1999, appears to have been made only on the basis of affidavits of two freedom fighters viz. Hanmantrao Babarao Dhupe and Devidas Kisanrao Joshi. Having regard to the judgment of the Apex Court in ***State of Maharashtra and Ors V/s. Namdeo etc., Civil Appeal Nos.7899-7901 of 2013 (Arising out of S.L.P. (Civil) Nos.26441-26443 of 2012) decided on 09-09-2013,*** more particularly the documents not being produced it is difficult to accede to the request under writ petition. No other corroborative material is there. When there is no evidence to substantiate claim, merely on the basis of vague contentions in the writ petition, impugned order passed by respondent no.3 cannot be set aside and the respondents cannot be directed to consider the claim of the petitioner and grant him pension under the Scheme.

8. Having regard to aforesaid, writ petition is liable to be dismissed. Accordingly, the same is dismissed with no order as to costs.

(**B. U. DEBADWAR, J.)**

(**SUNIL P. DESHMUKH, J.)**