

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT APPEAL No.85 of 2020

05.02.2020

Between:

Gosika Veeraiah

...Appellant

and

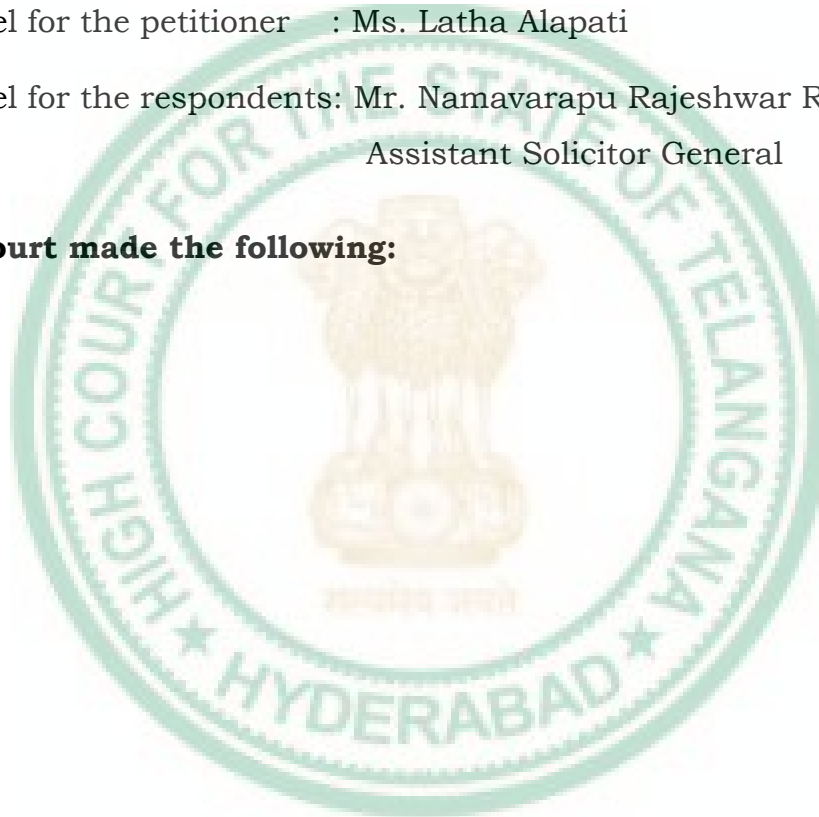
Union of India and others

...Respondents

Counsel for the petitioner : Ms. Latha Alapati

Counsel for the respondents: Mr. Namavarapu Rajeshwar Rao,
Assistant Solicitor General

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellant has challenged the legality of the order dated 03.12.2019, passed by a learned Single Judge in W.P.No.5427 of 2014, whereby the learned Single Judge has dismissed the writ petition, *inter alia*, on the ground that although the appellant claimed that he should be granted the benefit of Swatantrata Sainik Samman Pension Scheme, 1980, since he failed to bring his case within the said Scheme, the benefit of the said Scheme could not be granted to him.

Briefly, the facts of the case are that the appellant claimed that he had participated in the Anti-Nizam Government Movement for the merger of Hyderabad State with Indian Union along with several other freedom fighters. According to him, he had participated in the armed attack in Vavillapally Village, where the Nizam Police and Razakars were camped, in which three freedom fighters became martyrs, and four Razakars were killed. He further claimed that he had participated in the armed attack on Nizam Police and Razakars at Kompally and Domalapally Villages, in which Nizam Police were killed. According to the appellant, considering his involvement in the said two attacks, the Nizam Government had issued a arrest warrant against him. In order to evade the arrest warrant, he went underground for a period of six months. Moreover, according to him, during the period he was underground, he worked in Jammalamadaka border camp under the leadership of Sri K. Kistam Raju, and Sri K. Gurunatha Reddy. After the merger of the Hyderabad State with the Indian Union, he came out of the underground activities.

Furthermore, according to the appellant, the Union of India had framed a Scheme called “Swatantrata Sainik Samman Pension Scheme” (“the Scheme”, for short), with a view to provide financial assistance to the persons, who had suffered in the Anti-Nizam Movement for the merger of Hyderabad State with the Indian Union. Since the appellant was eligible for the said Scheme, he applied for the same in 1995. The cases of those persons who had applied under the said Scheme were referred to the Hyderabad Special Screening Committee. Since his application had not been considered, the appellant filed a writ petition, namely W.P.No.2802 of 1998, before this Court, for seeking a direction to the respondents therein to consider his application, and to grant him pension. Consequently, in compliance with the directions issued by this Court in a batch of writ petition, the Union of India framed Guidelines, and as per the said Guidelines, the application of the appellant along with other applications were sent to the Government of Andhra Pradesh for verification of the facts mentioned in the applications. Consequently, the Government of Andhra Pradesh requested the District Collector, Nalgonda, to enquire into the matter and submit a verification report.

The Revenue Divisional Officer, Nalgonda, by letter dated 22.11.2003, informed the District Collector, Nalgonda, that the documents submitted by the appellant were found to be correct. Hence, the District Collector, Nalgonda, sent the documents submitted by the appellant to the Government by his letter dated 24.09.2005. Despite the fact that the appellant’s documents were verified by the Revenue Divisional Officer, and were sent by the District Collector, the Government of Andhra Pradesh did not process the appellant’s application. Therefore, the appellant was forced to file

a second writ petition, namely W.P.No.19103 of 2006. However, during the pendency of the said writ petition, by order dated 10.01.2007, the Government of India rejected the appellant's case for being granted the benefit of the Scheme. Therefore, the appellant filed a third writ petition, namely W.P.No.3730 of 2007, before this Court against the rejection order dated 10.01.2007.

During the pendency of the said writ petition, on the directions issued by the Government of India, the respondent No.1, the Government of Andhra Pradesh requested the District Collector to again submit a verification report in the appellant's case. By letters dated 11.06.2008 and 21.02.2009, the District Collector forwarded the verification report along with the revised check list. Despite the fact that it was the duty of the Government of Andhra Pradesh to forward the verification report to the Union of India, by proceedings dated 08.02.2010, the Government of Andhra Pradesh recommended to the Union of India that the appellant's case should be rejected on the ground that he had neither submitted any documentary evidence, such as a copy of the arrest warrant, a copy of the court order, or detention order issued for his arrest, nor submitted any document showing the fact that he was imprisoned for a minimum period of two years. Aggrieved by the recommendation made by the Government of Andhra Pradesh, by letter dated 08.02.2010, the appellant filed a fourth writ petition, namely W.P.No.12634 of 2012, before this Court.

During the pendency of the fourth writ petition, the Government of Andhra Pradesh again started the process of verification based upon the documents submitted by the appellant. After getting the report from the Revenue Divisional officer, the District Collector again forwarded the appellant's application along

with the relevant documents by letter dated 12.03.2013. Consequently, the Government of Andhra Pradesh forwarded these documents to the respondent No.1, by letter dated 28.10.2013, for taking appropriate action. However, the Under Secretary, the respondent No.2, again rejected the case of the appellant. Therefore, the appellant filed the present writ petition before this Court.

In the counter filed by the respondent Nos.1 and 2 in the writ petition, they have raised a preliminary objection with regard to the maintainability of the writ petition, *inter alia*, on the ground that the rejection order dated 09/10.01.2007 was already upheld by this Court, by its order dated 28.03.2012 in W.P.No.3730 of 2007, and the said writ petition was dismissed by this Court by the said order. Therefore, on the basis of the same set of facts, a second writ petition was not even maintainable.

Secondly, mere issuance of an arrest warrant is not a sufficient ground for grant of pension under the Scheme. In fact, the appellant was required to produce documentary evidence by way of Government/Court order showing fulfilment of either of the three conditions, namely (i) he was proclaimed as an offender (ii) he was one on whom an award for arrest was passed (iii) he was one for whose detention an order of arrest was issued, but not served. Since none of these conditions have been satisfied, according to the respondent Nos.1 and 2, the appellant's case deserves to be dismissed.

By the impugned order, the learned Single Judge has dismissed the writ petition, *inter alia*, on the ground that the appellant has failed to bring his case within the Scheme, and since his earlier writ petition was already dismissed by order

dated 28.03.2012, the present writ petition is hit by the doctrine of *res judicata*. Hence, this appeal before this Court.

Ms. Latha Alapati, the learned counsel for the appellant, has not been able to demonstrate before this Court as to how the appellant's case falls within the scope and ambit of the Scheme. Moreover, the learned counsel admits that the same issue was agitated before this Court in W.P.No.3730 of 2007, and the said writ petition was dismissed, by order dated 28.03.2012.

Furthermore, even in the writ appeal, the appellant has not filed any documents to bring his case within the three requirements of the Scheme. Therefore, this Court is of the opinion that the learned Single Judge is justified in rejecting the writ petition on the reasoning mentioned hereinabove. Hence, this Court does not find any illegality or perversity in the impugned order.

The Writ Appeal is, hereby, dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

05th February, 2020
JSU

High Court for the State of Telangana**THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN****AND****THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY****WRIT APPEAL No.85 of 2020****(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)****Date: 05.02.2020****JSU**