

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1396 of 2018

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Ganesh Chandra Jaiswal S/o Brij Raj Choudhary Residents of Village P.O.
P.S.- Dalsinghsarai, District Samastipur, at Present residing at Barkagaon
Road, Shankarpur, Hazaribagh, Jharkhand- 825301

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Dy. Secretary, Department of Home Special Branch, Govt. of Bihar, Patna.
4. The Under Secretary, Swatantrata Senani Prabhag, Ministry of Home, Govt. of India, NDCC Bhawan-11,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arvind Kumar, Advocate
For the State	:	Mr.Manish Kumar, GP-4
		Mr. Deepak Kumar, AC to GP-4
For the UOI	:	Mr. Awadhesh Kr. Pandey, Sr. Panel Counsel
		Mr. Saket Chobey, Advocate
		Mr. Komal Chowbey, Advocate
		Mr. R.K. Sharma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 16-08-2022

The present writ petition has been filed for quashing the letter dated 28.04.2017 issued by the Government of India, Ministry of Home Affairs (FFR Division), by which the petitioner has been communicated that the application of the father of the petitioner for grant of freedom fighter Samman pension has been rejected. It is further prayed that the father of the petitioner be granted freedom fighter Samman pension.

The learned counsel for the petitioner has submitted that the father of the petitioner namely Late Braj Raj Choudhary



was a patriot as well as a freedom fighter who suffered a lot during the freedom movement. It is submitted that the Department of Home, Government of Bihar has written to the Under Secretary, Government of India vide letter dated 05.08.1992, and recommended for grant of Freedom Fighter Samman pension to the father of the petitioner. It is submitted that the father of the petitioner had remained underground from 15.07.1942 to the month of August, 1945. It is also submitted that the father of the petitioner died in the year 1988, whereafter the matter is being pursued by the petitioner, however, to no avail. Lastly, it is submitted that by a letter dated 28.04.2017, the petitioner has been informed that the claim of the father of the petitioner for grant of freedom fighter pension had been rejected long back on 03.11.1993, which is perverse and illegal.

Per contra, the learned counsel for the respondent no. 4 has submitted that only such freedom fighters are eligible for the samman pension who fulfill the criteria mentioned in the *Swatantrata Sainik Samman* pension scheme by furnishing the proof of claimed sufferings of the nature and in the manner specified in the scheme itself. It is also submitted that the claim of the deceased father of the petitioner was rejected way back in the year 1993 and now after 25 years a belated claim has been



set up by filing the present writ petition. It is also submitted that the claim of the father of the petitioner is based on secondary evidence and supported by personal knowledge certificates issued by two freedom fighters but the copy of self jail suffering certificates of both certifiers are not enclosed, which are essential as per the guidelines of SSS Yojana. The pension can be sanctioned only after submission of proof as required in the SSS Yojana and in no other manner. The learned counsel for the respondent no. 4 has also referred to the judgments rendered by the Hon'ble Apex Court in the case of *Union of India vs. Bikash R.* and *Union of India vs. K. Indrasena Reddy* to submit that a freedom fighter would be entitled to pension under the SSS Yojana only if he fulfills the eligibility criteria/conditions laid down under the said Yojana. It is further contended that mere recommendation of the State Government is not sufficient and the competent authority before deciding grant of pension must see whether the case of the freedom fighter falls within the eligibility criteria and evidentiary requirements of the SSS Yojana. It is also submitted that as per clause no. 1.5 of the revised policy/guidelines of SSS pension scheme, circulated vide order no. 45/03/2014 FF(P) dated 06.08.2014, the petitioner is not eligible to claim freedom fighter pension and



any Life Time Arrears of Freedom Fighter pension under the SSS pension scheme. Clause 1.5 reads as follows:-

“Sanction of pension after the death of Freedom Fighter: No pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. This also entails that no life time arrears or dependant pension shall be sanctioned to his/her spouse/daughter after the death of the freedom fighter.”

Hence, it is submitted that since the father of the petitioner died in the year 1981, the petitioner is not eligible to claim freedom fighter pension under the SSS Yojana. In any view of the matter, it is submitted by the learned counsel for the respondent no. 4 that even otherwise the petitioner is not eligible to claim life time arrears of freedom fighter pension inasmuch as the dependant pension can only be sanctioned either to the spouse or to the unmarried daughter. However, in the present case the case of the father of the petitioner had also stood rejected vide letter dated 03.11.1993, hence the petitioner is not entitled to grant of any freedom fighter pension qua his father. The learned counsel for the respondent no. 4 has also drawn the attention of this Court with regard to the peculiar facts of the present case which can be summed up as follows:-

“i. Home(spl) Department of Bihar Government



had forwarded the application of Late Brij Raj Choudhary for granting of freedom fighter pension vide their letter no. 2048/C dated 05.08.1992.

ii. After scrutinizing the above cited application, this Ministry had found that following documents were not enclosed alongwith the application:-

a. Personal Knowledge Certificate (PKC) of Shri Kapil Dev Thakur and Shri Prayag Mahato.

b. Non availability Certificate of concern Court G.R.

iii. Accordingly the Ministry of Home had informed the Home (spl) Department of Bihar Govt. vide letter no. CZ/114/11523/93 FF(Bihar) dated 23.03.1993 with a direction to submit the above mentioned two certificates.

iv. The application of Late Brij Raj Choudhary for granting of freedom fighter pension was rejected by this Ministry on 03.11.1993.

v. Shri Brij Raj Choudhary (deceased), applicant of above cited application died in 1988.

iv. LR (Ganesh Chandra Jaiswal) of Late Brij Raj Choudhary has approached this Hon'ble Court.

It is also submitted by the learned counsel for the respondent no. 4 that the petitioner has claimed that his late father remained underground since 25th August, 1942 to August, 1945, however, the father of the applicant had not produced any documentary evidence for the purposes of acceptance of his



claim for SSS Pension. Lastly, it is submitted by the learned counsel for the respondent no. 4 that the application of petitioner's father was not supported by required documents as per the SSS Yojana and after scrutinizing the above cited application, the respondent no. 4 found the deficiency of essential documents.

I have heard the learned counsel for the parties and gone through the materials on record from which it is apparent that the present writ petition has been filed belatedly and suffers from gross delay and laches inasmuch as though the case of the father of the petitioner for grant of SSS pension was rejected on 03.11.1993, the son of the deceased freedom fighter i.e. the petitioner herein has approached this Court only by filing the present writ petition in the year 2018 i.e. after a lapse of about 29 years, hence on this ground alone the present writ petition is fit to be dismissed. Nonetheless, even on merits the petitioner has got no case inasmuch as the father of the petitioner had failed to submit the documentary evidence/proof as required under the SSS Yojana. Moreover, this Court finds that as per clause 1.5 of the revised guidelines of the respondent no. 4, no pension can be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination.



Moreover, life time arrears or dependent pension is payable only to the spouse or unmarried daughter of the freedom fighter, however, after the death of the freedom fighter, same cannot be sanctioned, hence the present writ petition is utterly misconceived and fit to be dismissed. This Court also finds that the father of the petitioner had died in the year 1988 and his case for grant of freedom fighter pension was rejected in the year 1993, however, the petitioner has been pursuing a stale claim which depicts his greed, hence he is not only dis-entitled to any relief but is also liable to be penalized but this Court refrains from taking such extreme step against the petitioner.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition which is thoroughly misconceived, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	19.08.2022
Transmission Date	

