

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 WRIT PETITION NO.6843 OF 2023

TUKARAM VITHOBA KAMBLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER
WITH
930 WRIT PETITION NO.6960 OF 2023

RAMKRISHNA SHINGE DIED THROUGH LRS SHALANBAI
RAMKRISHNA SHINGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER
WITH
931 WRIT PETITION NO.6988 OF 2023

SIDRAM SHANKARAPPA BYALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER
WITH
932 WRIT PETITION NO.6990 OF 2023

MALIKARJUN SIDRAMAPPA SUTAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER

Mr.N.L.Jadhav, Advocate for the Petitioners.
Mr.S.G.Karlekar, Mr.V.M.Kagne, AGPs' for Respondent Nos. 1 and 2.

**(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)**

DATE : JULY 19, 2023

PER COURT :

1. All these petitions pertain to the settling of the date from which the Freedom Fighters' Pension benefit would be available to the Freedom Fighters. On 27.06.2023, we had passed the following order :-

"1. The petitioners in Writ Petition No. 6843 of 2023, Writ Petition No. 6988 of 2023 and Writ Petition No. 6990 of 2023 are 93, 91 and 87 years old freedom fighters who had participated in the Hyderabad Mukti Sangram. The petitioner in Writ Petition No. 6960 of 2023 is a widow of a freedom fighter. They have put forth prayer clauses B, C and D as under :

"B. By issuing appropriate writ, order in the like nature, it may behold and declared that, government resolution dated 30.07.2016 is not applicable to the case of the petitioner for grant of freedom fighter pension under Freedom Fighter Pension Scheme.

C. By issuing writ, order or directions in the like nature, the respondent No. 1 State of Maharashtra may please to be directed to sanction freedom fighter pension to the petitioner from the date of his second application i. e. 06.01.2014 by modifying impugned order dated 08.11.2019 issued by the respondent no. 1 and release the arrears of freedom fighter

pension to the petitioner within 8 weeks with interest with effect from his 2nd application or with effect from 06.01.2014 and for that purpose issue necessary orders.

D. Pending hearing and final disposal of this Writ Petition, the respondent no. 1 may kindly be directed deposit the arrears of pension of the petitioner from the date 06.01.2014 in this Hon'ble Court upto impugned order dated 08.11.2019."

2. Issue notice to respondents, returnable on 19.07.2023. The learned A. G. P waives service of notice on behalf of all the respondents.

3. Parties to note that these matters would be considered finally on the returnable date keeping in view the advanced age of the petitioners. Therefore, affidavit in reply, shall be filed at least five (05) days prior to the returnable date.

4. List these petitions in the urgent admissions category."

2. A co-ordinate Bench of this Court has delivered a judgment on 23.03.2023 in WP No.11864/2019 filed by Laxmibai Bhaurao Mane Vs. The State of Maharashtra and others. The issue before us was also the issue before the Co-ordinate Bench and by the said judgment, the writ petition was partly allowed with the following directions :-

"II. We hold and declare that the Government Resolution dated 30th July, 2016 is invalid so far it is made applicable to cases where unimpeachable evidence regarding participation of the freedom fighters is available on record and it is not required to establish claim on the basis of allied material.

III. The respondents are directed to release the Freedom Fighters Pension to the petitioner w.e.f. 16th July, 2011 and release all consequential benefits within a period of 3 months from the date of this order."

3. Having perused the said judgment, the facts in the case of Laxmibai Bhaurao (supra), which are quite similar to the facts before us and the conclusions drawn by the Co-ordinate Bench resulting in the issuance of the two directions reproduced above, we do not find that there is any reason to take a different view in these matters.

4. The learned Advocate for the Petitioners submits on the basis of the record that if the documents indicating unimpeachable evidence regarding the participation of the Petitioners / the freedom fighters, is available and the claim is not required to be established with the aid and assistance of any other document or allied pieces of evidence, the concerned person or his survivor would be entitled for the

freedom fighters' pension from the date of submission of such documents.

4. In two petitions filed by Tukaram and Malikarjun, there is no issue about the submission of documents. However, in the petitions filed by Shalanbai and Sidram, though the documents are available, the Respondents will have to assess on the basis of the record as regards the dates on which these documents were tendered. With the tendering of such clinching evidence, the concerned Petitioner would be entitled for the pension. The learned Advocate for the Petitioners submits that this is a legal position, which cannot be controverted in the light of the judgment delivered in Laxmibai Bhaurao (supra).

5. In view of the above, **the Writ Petitions** filed by Tukaram (WP No.6843/2023) and Malikarjun (WP No.6990/2023), **are partly allowed** in terms of the two directions set out in the judgment in Laxmibai, which are reproduced hereinabove. With regard to the Writ Petitions by Shalanbai (WP No.6960/2023) and Sidram (WP No.6988/2023), the Authorities would verify the dates, from their records, on which the documents were tendered and from those dates,

these Petitioners would be entitled for the pensionary benefits.

6. **These two petitions are accordingly disposed off.**

7. Let this verification exercise be completed within 90 days
and upon being convinced, the pension would be released with arrears.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)