

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.1468 OF 2008

ORDER:

Heard Mr. V. Satyam Reddy, learned senior counsel representing M. Kiran Reddy, learned counsel for the petitioner, Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing on behalf of respondent Nos.1 and 3 and learned Government Pleader for Revenue appearing on behalf of respondent Nos.2 and 4.

2. CASE OF THE PETITIONER:

i) The petitioner herein claims that her husband, late Rami Reddy, participated in the liberation movement of erstwhile Hyderabad State during the Nizam period and number of cases were instituted against him during the period from 1356 Fasli to 1357 Fasli. He was forced to go underground for a period of more than one (01) year during which period, there were Court cases against him.

ii) The husband of the petitioner participated in the struggle against Nizam and for merger of Nizam State with Union of India. Therefore, he is eligible and qualified for getting pension.

iii) The Government of India had formulated a Scheme i.e., Swatantra Sainik Samman Pension (SSSP) Scheme 1980' (for short

‘SSSP Scheme 1980’), to provide financial assistance to the freedom fighters.

iv) The husband of the petitioner died on 09.10.1971. On coming to know the aforesaid SSSP Scheme 1980, she had submitted an application to the respondents for grant of pension by enclosing necessary certificates. Since the application was not considered by respondent Nos.1 and 3, she had filed a writ petition vide W.P. No.3597 of 1998 and the same was disposed of vide order dated 24.08.1998 directing respondent Nos.1 and 3 to dispose of her application expeditiously in accordance with the said SSSP Scheme 1980.

v) Pursuant to the said orders, a letter No.52/CC/45/2000-FF(lit.II) HC dated 28.02.2000 was addressed to the petitioner to submit a copy of the application to the State Government and another copy to the Central Government. Accordingly, she had submitted an application. Pursuant to the same, respondent No.2 got her case enquired through the Revenue Divisional Officer, Karimnagar.

vi) On the basis of the said enquiry, respondent No.2 addressed a letter No.C5/5280/02, dated 10.03.2002 to respondent No.4 stating that the report of the RDO is to the effect that the husband of the petitioner participated in freedom struggle against Nizam Government and his age

was 15 years as on March, 1947 and that he died on 09.10.1971 leaving behind the petitioner. Accordingly, respondent No.2 requested the government to include the name of the husband of the petitioner in Special Screening List for taking further action.

vii) On the basis of the said letter of respondent No.2, respondent No.4 addressed letter No.16444/FF.II-A (1)/2003-1, dated 12.05.2003 to respondent No.1 recommending the case of the petitioner for grant of freedom fighters pension.

viii) Despite recommending the case of the petitioner, it was not considered and, therefore, she had filed a writ petition vide W.P.No.13149 of 2004. The same was disposed on 05.12.2006 directing the petitioner herein to submit copies of the documents to the Committee, which in turn shall scrutinize the same and submit a verification report to the Government of India within three (03) weeks and respondent No.1 shall examine and decide the claim of the petitioner for sanction of pension and communicate a copy thereof to her.

ix) Pursuant to the said orders, respondent No.4 addressed a letter No.57474/FF.II/A1/2006, dated 27.07.2007 to respondent No.1 forwarding the documents submitted by the petitioner. However, the case of the petitioner was not considered and the same was rejected by

the impugned order in Letter No.52/CC/64/2004-FF(HC-CO,) dated 12.09.2007.

x) She has filed proceedings No.240/1356 Fasli, dated 20th Bahman, 1356 of the Inspector of Police, Gambhiraopet to the effect that her husband was arrested while conducting meeting against the Nizam Government.

xi) The petitioner has also filed Certificates issued by Mr. G. Thirupathi Reddy, prominent Freedom Fighter and Manala Camp In-charge, who was a convict prisoner on 21.05.1357 Fasli to undergo imprisonment ranging from one month to four years, to the effect that her husband was in the said Camp from 15.08.1947 to 17.09.1948.

xii) She has also filed certificate issued by Mr.Burra Laxminarayana, who was imprisoned as under trial prisoner on 03.03.1357 Fasli and was released on bail on 04.01.1358, to the effect that detention order was issued against her husband but could not be served and that her husband was in underground for more than six (06) months.

xiii) Thus, according to the petitioner, she has submitted all the requisite documents. Therefore, she is entitled for grant of freedom fighters pension.

3. CONTENTIONS OF RESPONDENT Nos.1 AND 3:

Respondent Nos.1 and 3 filed counter opposing the relief sought by the petitioner and further contended as under:

- i) First of all, the claim of the petitioner is not recommended by the erstwhile Hyderabad Special Screening Committee appointed for screening of applicants of border camp sufferings in the erstwhile State of Hyderabad.
- ii) The petitioner has not submitted documentary evidence to show that her late husband suffered imprisonment up to one year from 30.09.1947.
- iii) The proceedings of Inspector of Police, Gambhiraopet produced by the petitioner is only information about absconding of some accused and that it does not prove either of the three conditions viz., i) he has to be a proclaimed offender; or ii) he is one on whom an award for arrest was announced; or iii) he is one for whose detention, an order of arrest was issued but not served as per the said

Scheme. In the absence of the same, she is not entitled for the pension and the said principle was laid down by the Hon'ble Supreme Court in **Union of India v. K.Indrasena Reddy**¹.

- iv) The Hyderabad Special Screening Committee (HSSC) was constituted to consider claims of persons who claimed sufferings in the border camps during the Hyderabad Liberation Movement.
- v) The said HSSC did not recommend the name of the husband of the petitioner in the report submitted to the State Government. Therefore, the claim of the petitioner cannot be considered under the provisions of SSSP Scheme, 1980.
- vi) To consider the claim of the petitioner under SSSP Scheme, 1980, she has to furnish valid documentary evidence either through primary evidence or through secondary evidence. But, the petitioner failed to do so. Therefore, her claim was rejected by respondent No.1 vide proceedings dated 12.09.2007.

¹. 2007 AIR 2484

- vii) The proceedings No.240/1356 Fasli, of the Inspector of Police, Gambhiraopet does not prove any of the aforesaid three conditions.
- viii) The PKC issued by Bura Laxminarayana and Gaddam Thirupathi Reddy have no evidentiary value and, therefore, the same were not considered.
- ix) The petitioner failed to produce either primary evidence or the secondary evidence.
- x) Therefore, the petitioner herein is not entitled for any relief as she has not satisfied any one of the eligibility criteria prescribed in the Scheme.
- xi) With the aforesaid contentions, respondent Nos.1 and 3 sought to dismiss the writ petition.

4. **ANALYSIS AND FINDING OF THE COURT:**

i) The petitioner herein claims that her husband is a freedom fighter and, therefore, she is eligible for grant of pension under SSSP Scheme, 1980. The reasons for considering her case are that her deceased husband Rami Reddy participated in the liberation movement of erstwhile Hyderabad State during the period of Nizam and number of cases were instituted against him during the period 1356 Fasli to 1357

Fasli. He was forced to go underground for a period of more than one (01) year during which period there were Court cases against him.

ii) The petitioner's claim was not considered by respondent No.1 for grant of freedom fighter pension on the ground that her husband name was not recommended by the Hyderabad Special Screening Committee.

iii) It is relevant to note that the Central Government constituted HSSC to scrutinize applications of persons who claimed suffering in the border camps during the Hyderabad Movement spanning the States of Andhra Pradesh, Karnataka and Maharashtra in the erstwhile State of Hyderabad. The essential evidentiary requirement in HSSC cases was the valid HSSC recommendation slip/report. In the case on hand, the name of the husband of the petitioner has not been recommended by the HSSC due to inadequate evidence and, therefore, her claim was rejected. However, in the said circumstances and as HSSC did not recommend the name of the husband of the petitioner, respondent No.1 had accepted to consider the case of the petitioner under the provisions of SSSP Scheme, 1980.

iv) In **K.Indrasena Reddy**¹, the Hon'ble Supreme Court laid down following principles for grant of pension.

“A person is entitled to the benefit of the Samman Pension Scheme provided he fulfills the criteria laid down therein. One of the criteria laid in the said scheme, as noticed hereinbefore, was that the concerned person on account of his participation in freedom struggle. Had to remain underground for more than six months. However, the same would be subject to the conditions laid down therein, namely, (i) he has to be a proclaimed offender: or (ii) he is one on whom an award for arrest was announced; or (iii) he is one for whose detention, an order of arrest was issued but not served.

If only an order of detention was issued, the same by itself may lead to a conclusion that the first respondent had to remain underground for more than six months, unless he proves one or the other requisite condition precedents therefor mentioned in the scheme.”

v) In view of the above, in the case on hand, the petitioner failed to produce any evidence fulfilling the aforesaid conditions. Therefore, respondent No.1 did not consider the claim of the petitioner.

vi) Further, as per the Scheme, the verification and recommendation report from the State Government is mandatory for the reason that the documents and other evidence of the claims are in their possession. At the same time, a positive recommendation of the State Government is not binding on the Central Government if the claim does not satisfy the eligibility criteria and evidentiary requirements prescribed under the Scheme as held by a Division Bench of the erstwhile High

Court of Andhra Pradesh in **Union of India v. Panjala Rajaiah**² and upheld by the Apex Court in **Mahender Singh v. Union of India**³. The relevant observations are as under:

“.....In other words, the recommendation of the State Government is not final or conclusive and it is for the authority of the Central Government granting such pension to make further inquiry in the matter in terms of various conditions prescribed in the Scheme and to take a final decision.”

vii) In view of the above principle, in the present case, though the petitioner claims that her husband had participated in the liberation movement of erstwhile Hyderabad State during the period of Nizam and that he was forced to go underground for a period of more than one year, she has not filed any documentary evidence either primary or secondary. According to respondent Nos.1 and 2 also, the claim of the petitioner was reconsidered in compliance of the directions of this Court in W.P. No.13149 of 2006 and her claim was rejected vide order dated 12.09.2007 as she failed to produce the documentary evidence to the effect that her husband suffered as required under the SSSP Scheme, 1980 and the instructions issued thereunder. Perusal of the record would show that the documents produced by the petitioner do not satisfy

². Order in W.A. No.175 of 2007, decided on 20.02.2007

³. JT 2010 (10) SC 547

the requisite conditions mentioned above. Mere participation in the struggle against Nizam does not make eligible for grant of pension under the Scheme. The proceedings of the Inspector of Police, Gambhiraopet, dated 20th Bahman 1356 Fasli is only information about absconding of accused but it is not an order announcing an award for arrest or on head of the husband of the petitioner.

viii) Further, in order to grant a pension under SSSY, a freedom fighter must have the following:

- (i) A person who on account of his participation in freedom struggle remained underground for six (06) months or more provided he was:
 - (a) a proclaimed offender; or
 - (b) one on whom an award for arrest/head was announced; or
 - (c) One whose detention order was issued but not served;
 - (d) Voluntary underground suffering or self-exile for party work under the command of the party leaders is not covered as eligible sufferings for pension under the Scheme.
- (ii) The applicant should furnish the documents indicated below, whichever is applicable, in order to prove his

claimed sufferings for grant of pension under the SSS Yojana

(a) **Primary evidence:** Documentary evidence by way of Court's/Government's order proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention. According to the SSSP Yojana, 1980, absconsion on issue of warrant of arrest is not an eligible suffering for grant of Samman Pension, unless the same is followed by the order of proclaimed offender/or award for arrest/on head or detention order;

(b) **Secondary evidence:** In the absence of primary record based evidence, a Non availability of Records Certificate (NARC) from the concerned State Government/Union Territory Administration along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail suffering of minimum two years and who happened to be from the same administrative district can be submitted as supporting evidence to the claim.

ix) Coming to the petitioner's case, the petitioner does not fall in any of the above categories to consider her claim for grant of pension and did not produce any evidence either primary or secondary. Thus, respondent No.1 did not consider the claim of the petitioner for grant of freedom fighter pensions.

5. **CONCLUSION:**

i) In view of the above discussion, the petitioner failed to make out any ground for grant of freedom fighter's pension and, therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

ii) The present Writ Petition is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

10th January, 2023
Mgr

K. LAKSHMAN, J