

28th February,
2024
(AK)
24

W.P.A 1610 of 2024

Sujan Kumar Pattanayak
Vs.
Union of India and others

Mr. Sayan Mukherjee
...for the petitioner.

Mr. Ashok Kr. Chakraborty, Ld. ASG
Ms. Anamika Pandey
...for the UOI.

Ms. Mousumi Choudhury
Mr. Md. Ziaur Rahaman
...for the State.

1. An adjournment is sought by learned counsel for the petitioner.
2. However, since the matter is pending under the heading 'Upgraded Matters', taking up the space of other equally urgent matters, such prayer is refused and the matter is taken up for hearing.
3. The grievance of the petitioner, who is ninety per cent disabled, is that in terms of the Freedom Fighter's Pension Scheme, 1972, even the son of a freedom fighter, in exceptional cases, where he is unable to establish himself in life, is entitled to the benefit of the scheme on the demise of his freedom fighter father.

4. In the impugned refusal, the respondent authorities gave a blanket reason that sons were not entitled under the said scheme.
5. Challenging the same, the present writ petition has been preferred.
6. Learned ASG appearing for the respondent authorities places reliance on the latest version of the Scheme floated on August 15, 1981 and submits that by virtue of the 1981 scheme, the 1972 scheme has been replaced.
7. Under the current provisions, that is, Clause 3 of the 1981 scheme, sons have been excluded altogether from the purview of the benefit of the scheme.
8. Learned counsel for the petitioner in reply argues that the scheme ought to be construed liberally.
9. Since at the juncture when the scheme was first granted to the petitioner's freedom fighter father, there was no restrictive clause as the present, it is argued that the same standards must be adhered to for the heirs of the freedom fighter as well.
10. However, such contention of the petitioner cannot be accepted.
11. A scheme is not a static set of edicts set in stone. A scheme may very well be dynamic and may be changed at the discretion of the authorities from time to time.

12. Since the 1981 Scheme has been floated by the Central Government, unless the same defies Constitutional logic or traverses the bounds of the Constitution, there is no scope for judicial review of the terms of the scheme for granting a benefit to a contender.
13. There is a limit to the judicial interference in policy decisions of the Government.
14. Since the scheme contemplates specific provisions and eligibility clauses, it is not for the court to sit in judgment over the same, particularly since the vires of the same has not been challenged at all.
15. Adhering to the current scheme of 1981, sons of the deceased freedom fighter are not entitled at all under any circumstances to the benefit of the scheme on the demise of their father.
16. In such view of the matter, the contention of the petitioner cannot be accepted. The respondents were justified in refusing the petitioner's claim for getting the benefit of the scheme.
17. Accordingly, WPA 1610 of 2024 is dismissed without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)