

13.11.2024
Item Nos.7 to 9
GB/KS
Ct. No.1

M.A.T. 776 of 2024
With
I.A. No. CAN 1 of 2024
Union of India & Ors.
Versus
Smt. Kalyani Bhowmick & Ors.
+
F.M.A. 214 of 2023
With
IA No. CAN 1 of 2022
The Union of India & Ors.
Versus
Purnima Bhuniya & Ors.
+
M.A.T. 923 of 2021
With
IA No. CAN 1 of 2021
+
CAN 2 of 2021
The Union of India & Anr.
Versus
Sonali Hatua Giri & Ors.

Mr. Ashok Kr. Chakraborty, Ld. ASG
Mr. Sukumar Bhattacharyya.....for the appellants

Mr. Siddhartha Banerjee
Mr. Subrata Mukherjee.....
.....for the respondent/writ petitioner

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sayan Mukherjee
.....for the respondent no.1 in F.M.A. 214 of 2023
Mr. S. N. Dutta
Mr. Debapriya Samanta
.....for the appellants in M.A.T. 923 of 2021

1. All the three appeals have been filed by the Union of India challenging the order passed by the learned Single Benches holding that a widowed daughter of a freedom fighter would fall within the expression of “unmarried daughter” under the Swatantra Sainik Samman Pension Scheme and are entitled to freedom

fighters pension. This finding has been rendered by the learned Single Bench following the decision of the Hon'ble Division Bench of the High Court of Delhi in ***Union of India Vs. Kolli Uday Kumari*** reported at ***2023 SCC Online Delhi 264***. The said decision arose out of an appeal filed by the Union of India challenging an order passed by the learned Single Bench of the High Court, Delhi holding that the widowed daughter of freedom fighter would also be included within the connotation of the term "unmarried daughter" making them eligible for such pension. The said judgment has become final and binding upon the Union of India and the Union of India cannot argue a different case before this Court.

2. Therefore, the said finding rendered by the learned Single Bench holding that widowed daughter of freedom fighter would fall within the expression "unmarried daughter" who is entitled to seek for freedom fighters' pension as per the Swatantra Sainik Samman Pension Scheme is affirmed.
3. The next aspect is that the learned Single Bench found that the appellants have not enquired into to the question or any of the documents furnished regarding the alleged dependency of the writ petition.
4. Therefore, a direction was issued to the Under Secretary, Government of India, Ministry of Home Affairs, Freedom Fighter Division to consider the writ

petitioner's representation afresh in the light of the observations made and scrutinize the documents filed by the writ petitioner for the sole purpose of ascertaining whether the writ petitioners were dependent on the freedom fighter concerned and is thus entitled otherwise to get the benefit of the scheme.

5. In our view, the direction issued by the learned Single Bench is appropriate as according to the learned Additional Solicitor General, if the widowed daughter has inherited assets through her late husband, then obviously it would go to show that she was not a dependent of her father, who was a freedom fighter, who is no more. Therefore, the direction issued by the learned Single Bench is appropriate and hereby confirmed.
6. Accordingly, the appeals stand disposed of by directing the respondents/writ petitioners to submit a fresh representation along with copies of the earlier representation and documents to show and prove that the writ petitioners were dependent on their father, who was a freedom fighter and who is no more, along with the said representation, a copy of this order as well as the copy of the orders passed by the learned Single Benches shall be enclosed and the Under Secretary, Government of India, Ministry of Home Affairs, Freedom Fighter Division shall consider the representation, examine the documents and take a reasoned decision

within a period of twelve weeks from the date on which the representation is received in full form.

7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)