

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-3832-2001 (O&M)
Date of decision: 23.02.2024

Hazara Singh ...Petitioner
VERSUS
Union of India and another ...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- None.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for directing the respondents to grant Samman Pension to the petitioner for taking part in the freedom struggle.
2. It is also evident from a perusal of the order sheet that since 01.04.2002, the case has been taken up twice but there has been no representation on behalf of the petitioner. It is also evident from the report dated 05.01.2024 that even the learned counsel representing the petitioner has also been informed telephonically by the Registry, however, there is still no representation on behalf of the petitioner today as well.
3. The petition relates to the year 2001 and is pending for more than two decades, the same is thus taken up for adjudication.
4. As per the pleadings, the petitioner had claimed that during his youth, he had actively participated in the freedom struggle and remained confined in Central Jail Lahore from 05.07.1946 to 05.01.1947 and prior thereto he was confined for a period of one month in Kasoor Jail in the year

1941. He has further stated on record that the freedom fighter Bhim Sachar was also a co-prisoner with him along with other freedom fighters namely Makhan Singh Tariska, Dalip Singh Tapriala, Kotha Singh, Gurdial Singh Dhillon and Mohan Singh Mawa. The State Government had presented a *Tamar Pattar* for his services, as freedom fighter, in the freedom struggle.

5. An application for grant of pension was submitted by the petitioner to the Government of India under the Sawtantra Sainak Samman Pension Scheme in the year 1979 but no response was received thereupon. A communication was however eventually received on 27.07.1989 conveying to the petitioner that his application, having been received after the last date of submission i.e. 31.03.1982, the same was also not being entertained till the minimum claim of six months suffering in connection with the freedom struggle is established on the basis of official records. In the absence of any such document, the certificates issued by the sitting or former Member of Parliament (M.P.)/Member of Legislative Assembly (M.L.A.) and the central prisoners were not acceptable, hence, the claim of the petitioner was rejected.

6. In response to the said letter dated 27.07.1989, the Govt. of Punjab clarified that the claim of the petitioner had already been furnished prior to 31.03.1982 and the same remained pending with the Government of India since 31.10.1981. Hence, a representation was submitted again by the petitioner to the Government of India explaining that his application had been forwarded well in time under the Scheme of 1979 and that the same was not decided by the Union of India, hence, the same could not have been declined on an erroneous ground of having been received after the cut-off

date.

7. A reply vide letter dated 19.01.1991 was now sent by the Ministry of Home Affairs, Government of India to the petitioner informing an altogether new ground for rejection of his application that the Government of Punjab had not recommended his case whereas the said aspect was factually incorrect. The Sub-Divisional Officer(Civil), Zira, in response to a letter from Deputy Commissioner, Ferozepur, had specifically conveyed vide letter No.2781/S.D.A. dated 01.09.1992 that the petitioner was honoured with *Tamar Pattar* on 15.08.1972 and he had forwarded his application for Samman Pension in 1979. Again a reminder/representation was submitted by the petitioner to the Government of Punjab as well as the Government of India explaining rejection of his claim for incorrect facts and reasons.

8. The action of the respondent-State in failing to release Samman Pension to the petitioner is thus agitated by the petitioner in the present petition by averring that the said rejection is based on the aspects which are incorrect.

9. A counter affidavit had been filed on behalf of Union of India, wherein in it was averred that the Freedom Fighters' Pension Scheme, 1972, was notified by the Government of India and the pension was admissible only to those freedom fighters whose's annual income was less than Rs.5000/- and who had suffered imprisonment/abscondence/interment/exterment for atleast six months against an executive order of the then Government, in connection with the freedom struggle. Thus, it was not a scheme which provided pension to all freedom fighters but to only those

freedom fighters who fulfilled the eligibility conditions and the criteria provided under the Scheme. The type of evidence in support of the sufferings in connection with the freedom struggle was also prescribed in the scheme itself. In the absence of a primary evidence as prescribed in the scheme, the secondary evidence in the form of the Co-Prisoner's Certificate (CPC) was also acceptable in respect of jail suffering if the same was issued by a Legislator or Ex-legislator where official records (Primary evidence) were not available. Any person claiming imprisonment had to submit a jail certificate in support of his sufferings and in the event the jail certificate is not available, he has to produce non-availability of Records Certificate (NARC)+Co-Prisoner's Certificate (CPCs) from two prominent freedom fighters who should have undergone imprisonment for atleast one year. In case the certifier is the M.P./M.L.A. or Ex.M.P./M.L.A. and had been a freedom fighter himself, only one certificate was sufficient. Apart from the details of the scheme, while advertng to the facts of the case, the Union of India has submitted as under:-

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9. Shri Hazara Singh S/o Mangal Singh of Moga Distt. Punjab applied for S.S.S. Pension on 17.08.1981 and claimed six months jail sufferings from 05.07.1946 to 05.01.1947 in connection with Harsha Chinna Morcha Movement. Petitioner while applying for freedom fighter pension has not submitted any documentary evidence in support of his sufferings except a mere statement in his application for claim of pension. Since the claim was lacking documentary evidence

the same was rejected on 14.07.1986. However, Govt. of Punjab forwarded CPC of Shri Makhan Singh Tarsikka, Ex. MLA of District Amritsar. Who had suffered imprisonment just for six months thus he is not an eligible certifier (As has been explained in para 5 of the background material). However, on receipt of further information from Govt. of Punjab the case of the petitioner was further examined and it was seen that petitioner had claimed that he was tried in Amritsar Court but on request he failed to produce any evidence. Hence, his case was rightly rejected again on 19.01.1991. (A copy of the same is an Annexure R -I).

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10. It has been thus averred by the respondent-UOI that the petitioner had failed to submit any documentary evidence in support of his sufferings and had only appended a statement in his application for claiming pension. The same was thus rejected on 14.07.1986. However, the Government of Punjab forwarded the Co-prisoner's Certificate of Makhan Singh Tariska, Ex. M.L.A. of District Amritsar, who had suffered imprisonment for just 6 months, hence, he was not eligible as a certifier since the co-certifier, if he is an Ex. M.L.A. or M.P. etc., he should have undergone imprisonment atleast for a period of one year.

11. On receipt of further information from the Government of Punjab, the case of the petitioner was further examined, wherein the claim of the petitioner that he was tried in Amritsar Court was taken into consideration, however, no evidence in this regard has been adduced. Thus,

the claim of the petitioner was rejected again on 19.01.1991.

12. A separate written statement has also been filed on behalf of the Government of Punjab wherein they have re-iterated the salient features of the scheme and have only submitted that the claim was recommended and forwarded to the Government of India which is the final authority to take a decision.

13. No replication/rejoinder to the replies as filed by the respective agencies has been filed.

14. Taking into consideration that the claim of the petitioner for grant of the Samman Allowance/Pension was declined only for want of necessary documents, the present petition is **disposed of with liberty** to the petitioner to submit the requisite evidence/documents in support of his claim as would establish his eligibility for grant of the Samman Allowance/Pension. Needless to mention that in the event the petitioner furnishes such evidence, the necessary benefits, as are admissible to the petitioner/his LRs, under the Samman Allowance Scheme shall be released after passing a fresh speaking order within a period of 3 months of submission of the documents.

15. The pending civil misc. application(s), if any, shall also stands disposed of.

(VINOD S. BHARDWAJ)
JUDGE

23.02.2024
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No