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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-18580-2018 (O&M).
Date of Decision: 03.09.2024.

SANT LAL

.. Petitioner

Versus

UNION OF INDIA AND OTHERS

... Respondents

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

Present: Mr. Jaskaran Singh, Advocate,
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel,
for respondents No.1 and 2.

Mr. Pankaj Mulwani, DAG, Haryana,
for respondents No.3 and 4.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present writ petition is for seeking issuance of directions to the respondents to grant “Swatantrata Sainik Samman Pension Scheme, 1980”, and other remaining benefits admissible to the petitioner along with interest @ 12% per annum till its actual release.

2 Learned counsel appearing for the petitioner contends that the parents of the petitioner had participated in the Satyagrah movement at

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Hyderabad and that the petitioner was only 02 years old at that point in time. The mother of the petitioner was convicted by the Munsif Court, Raichur, vide order dated 27.06.1348 (seemingly written wrongly and ought to be some date in the year 1939). He submits that the Union of India had launched a scheme for the freedom fighters known as “Swatantrata Sainik Samman Pension Scheme, 1980.” The eligibility conditions thereof are extracted as under:-

"WHO IS ELIGIBLE? For the purpose of grant of Samman pension under the scheme, a freedom fighter is:-

(a) A person who had suffered a minimum imprisonment of six months in the mainland jails before Independence. However, ex-INA personnel will be eligible for pension if the imprisonment/ detention suffered by them was outside India. The minimum period of actual imprisonment for eligibility of pension has been reduced to three months, in case of women and SC/ST freedom fighters from 01.08.1980".

3 It is submitted that the petitioner came to know about the same only in the year 1984 and submitted his application for the pensionary benefits after collecting the relevant documents on 15.09.1999. The verification of the custody certificate was also provided by the Superintendent, District Prison, Raichur, Karnataka and a certificate dated 04.01.2001 recommending the name of the petitioner for receiving benefits/facilities of freedom fighter was also issued by Shri Baransi Dass Gupta, Member of Parliament (Rajya Sabha), Ex-Chief Minister, Haryana.

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He contends that vide memo dated 28.03.2001, the Chief Secretary, Haryana Govt. sought clarification from Freedom Fighters Division, Ministry of Home Affairs, Govt. of India, regarding eligibility of the petitioner for grant of Swatantrata Sainik Samman Pension. He contends that notwithstanding the same, the benefits have not been released to him.

4 While placing reliance on the written statement filed, the respondent-State of Haryana contends that the petitioner was 02 years of age when he claims to have remained confined along with his mother. It is contended that as per the Policy, the benefit of the pension is to be granted only to those persons who had suffered imprisonment on account of participation in the freedom struggle. It is contended that there is no act of participation of the petitioner in the freedom struggle and that the condition of the conviction having been satisfied for grant of pension has not been fulfilled. It is, however, submitted that final decision is to be taken by the Government of India who had floated the aforesaid Scheme.

5 A separate reply has also been filed on behalf of the respondents Union of India and by referring to the same, learned counsel appearing on behalf of respondents Union of India contends that the petitioner has no locus standi to file the present writ petition seeking the pension, since the said scheme was floated to recognize the claims of freedom fighters who had participated and had suffered imprisonment for their individual acts of participation in the freedom struggle. The claim of the petitioner is based upon the sufferings that was undergone by his mother

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who was convicted by Munsif Court for a period of 03 years and that the petitioner being an infant was lodged along with his mother and in fact, was not detained by any order passed by the competent authority for his act of participation in the freedom movement (Satyagrah movement). He further contends that the Ministry had specifically issued a clarification vide letter dated 05.10.2009 wherein it was decided that a claimant had to be more than 15 years of age at the time of participation for the grant of pension under “the Swatantrata Sainik Samman Pension Scheme, 1980.”

6 Replications were filed by the petitioner to the written statements filed on behalf of the respondents.

7 I have heard learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition with their able assistance.

8 The claim for grant of pension to the freedom fighters was introduced by the Government of India to provide financial assistance to the persons who had participated in the freedom struggle. Hence, an act of participation was a pre-requisite for availing the benefits under the said Scheme. In addition, the documents required to ascertain the entitlement have been prescribed under Clause IV of the said Scheme. The very interpretation and expansion of the word “Participation” requires a conscious action on the part of the person who is claiming benefits under the Scheme. Besides, there has to be an order of detention for the act of

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such participation with a minimum prescribed period as has been defined thereunder. Hence, the entitlement of a person to claim pension under the aforesaid Scheme is subject to the eligibility conditions prescribed thereunder and on establishing the participation.

9 The word ‘participation’ although has not been defined in the aforesaid scheme, however, under the ordinary parlance, it is interpreted as:-

“the act of taking part in something, such as partnership, a crime, or a trial.”

(Black’s Law Dictionary, 10th Edition).

10 Apparently, the above said act of participation in the freedom movement is not established by the petitioner. He seems to have been lodged along with his mother who was undergoing the detention on account of participation. The right of the mother of the petitioner to claim such compensation is independent but the petitioner having stayed with his mother as an infant while she was undergoing the sufferings cannot be a ground for the petitioner to contend that it was his own suffering. Rather, it was a comfort that had been extended to an infant to be lodged along with his mother at that point of time. On a plain and rational reading of the above said clarification which was issued in later in point of time i.e. in the year 2009, the petitioner, however, does not seem to fulfill the requirements of

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participation in the freedom struggle. Hence, I find that there is no merit in the present writ petition and the same is accordingly dismissed.

September 03, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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