

28.02.2025
Court No.13
Item No.2
sudipta

**AST 186 of 2013
with
I.A. CAN 1 of 2013 (Old No. CAN 10676 of 2013)
and
I.A. CAN 2 of 2020 (Old No. CAN 1323 of 2020)**

**Nilima Jana
Vs.
The Union of India & Ors.**

Mr. Bhaskar Chandra Manna
.....for the appellant.
Mr. Debapriya Samanta
..... For the UOI.

1. The appeal is directed against the judgment and order dated 10th September, 2013 passed in WP 7836 (W) of 2009 read with WP 24985 (W) of 2013 (Nilima Jana Vs. Union of India & Ors.)
2. The facts of the case are that the petitioner's father was enjoying freedom fighter pension under the Swatantrata Sainik Samman Pension Scheme of the Central Government. After the death of the petitioner's father, her mother was automatically receiving pension.
3. The petitioner is the divorced daughter of the late freedom fighter. She claims that in terms of similar rules prevalent under the State Government and other Central Government, she ought to be granted pension as a divorced daughter, since after the death of her mother who

was enjoying freedom fighter pension on account of the late father freedom fighter.

4. It appears that incorrect submissions have been made before the Single Bench which prompted the Court to dismiss the writ petition.
5. Learned counsel for the Union of India has placed a decision of a Division Bench of this Court dated 13th November, 2024 passed, inter alia, in MAT 776 of 2024, FMA 214 of 2023 and MAT 923 of 2021 (Union of India & Anr. Vs. Sonali Hatua Giri & Ors.).
6. The said three appeals were carried, inter alia, by Union against an order dated 4th February, 2022 in WPA 19818 of 2021 (Purnima Bhunia @ Purnima Bhunya Vs. The Union of India & Ors.). By the said order, the Single Bench of this Court relying upon a decision of another Co-ordinate Bench dated 7th April, 2021 in WPA 13806 of 2019 (Sonali Hatua Giri Vs. Union of India & Ors.) upheld the entitlement of freedom fighter pension to widow and divorced daughters as eligible dependents for pension.
7. In the order dated 13th November, 2024 (supra), the Division Bench, while not interfering with the order passed by the Single Benches including

Purnima Bhunia (supra) and Sonali Hatua Giri supra), directed the widow daughters to apply before the authorities concerned, demonstrating that after divorce, they were dependent on their mothers and fathers until death. The said appellant would also have to demonstrate that she did not have any independent income of her own nor has she inherited any property from her husband nor is she enjoying a substantial or comfortable alimony to pay for her living and other expenses.

8. This Court is, therefore, inclined, pursuant to the order dated 13th November, 2024 (supra), to direct the appellant to make a formal application, indicating therein the circumstances indicated above and make a formal claim for pension. If such application is made, on the basis of the observations made hereinabove, along with full particulars, within a period of one month from date, the respondents shall dispose of the same in accordance with law by passing a reasoned order thereon within a period of three months of receipt of the application.
9. Upon receipt of the petitioner's application, if there are any specific requirements and documents to be submitted by the appellant, the respondents shall

communicate with the appellant in this regard and intimate her of the same. It is only after receipt of documents from the petitioner by the respondent that the period of three months shall commence

10. With the aforesaid observations, AST 186 of 2013 shall stand disposed of.

11. Consequently, all pending applications, if any, shall stand disposed of.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)