

25.02.2025
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AN/Ct. No.14

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 30522 of 2024

Bharati Sen
versus
Union of India & ors.

Mr. Saikat Chatterjee
Mr. Partha Pratim Sinha
... for the petitioners

Mr. Asok Kumar Chakraborti, Sr. Adv., Ld. A.S.G.
Mr. Sukumar Bhattacharyya
... for the U.O.I.

Mr. Anand Farmania
Ms. Indumouli Banerjee
... for the State

1. The petitioner is already in receipt of the benefit under the Swatantrata Sainik Samman Pension Scheme, 1980 with effect from 18.01.2023. The husband of the petitioner was a freedom fighter who received the pension from the Central Government. He expired on 15.09.2016. The application for pension was made by the widow petitioner on 12.07.2017 before the District Magistrate. The application of the petitioner was forwarded by the State Government to the Central Ministry and the same was received by the Ministry on 20.10.2020. The processing of the application for pension of the petitioner took sometime and pension was ultimately sanctioned on 18.01.2023. The

petitioner prays for grant of pension on and from the date of making the application.

2. In support of the claim to receive pension on and from the date of application, the petitioner refers to the guidelines published by the Ministry of Home Affairs in the year 2014 for the Central Samman Pension to be followed by the authorized public sector banks wherein it is mentioned that a dependent pensioner shall be paid from the date of application and not from the date of the death of the pensioner.

3. The pensioner submits that the petitioner was no way responsible in the delay of forwarding the application for pension by the State authority to the Central Government. As the Ministry of the Home Affairs received the documents of the petitioner in October, 2020, accordingly, the pension ought to have been granted from the date of making application in 2017.

4. Learned Additional Solicitor General of India appearing for the Central Government refers to Clause 5.2 of the guidelines which mentions that it is the discretion of the Ministry to take a view whether to allow dependent pension or not or whether any arrears are to be paid or not.

5. From the submissions made on behalf of the parties, it appears that, admittedly, the petitioner filed application for obtaining pension after six months of

the date of death of the pensioner. The Central Government admits that the application was made on 12.07.2017 and the said application was received by the Ministry through the State Government on 20.10.2020. Pension was ultimately sanctioned on and from January, 2023.

6. Learned counsel appearing for the petitioner asserts that even though pension was sanctioned in January, 2023, actual pension is being paid to the petitioner on and from February, 2024. The petitioner prays for arrear pension.

7. As it appears that the Ministry has already exercised discretion and found the petitioner eligible to receive pension and has already sanctioned pension from a particular date, the matter is referred back to the Ministry once again to exercise discretion and consider whether arrear pension can be paid to the petitioner on and from the date of making application on 12.07.2017 as per the guideline 5.2.2 of the Ministry of Home Affairs of the year 2014.

8. The concerned Officer of the Ministry of Home Affairs is directed to take steps in the matter at the earliest but positively within a period of ninety days from the date of communication of this order. A reasoned order shall be passed and communicated to the petitioner immediately thereafter.

9. If the prayer of the petitioner is allowed, then necessary consequential steps shall be taken forthwith.

10. The instant writ petition stands **disposed of**.

11. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Amrita Sinha, J.)