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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 WRIT PETITION NO. 10403 OF 2025

Vijay Motilal Sharma

VERSUS

The Union Of India And Others

.....

Mr. Rajendra V. Dasalkar, Advocate for Petitioner

Mr. U.B.Bondar, Central Government Counsel for Respondent No.1

Mr. S.K. Tambe, Addl.G.P. for Respondents No.2 and 3

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 06 OCTOBER, 2025

PER COURT :-

1. Heard the learned Advocate for the petitioner. Learned Central Government Counsel waives service of notice for respondent No.1 and learned Addl. G.P. waives service of notice for respondents No.2 and 3.

2. The petitioner states that he is an unmarried citizen, aged 55 years, and has no independent source of income to sustain himself. He is dependent on his other siblings for his survival. His late father Motilal Laxmichand Sharma was the freedom fighter who contributed to India's freedom struggle. Respondent No.1 is the authority regarding payment of pension to freedom fighters in India and respondents No.2 and 3 are the authorities responsible for overseeing the welfare of freedom fighters. The petitioner states that his late father actively participated in the 1942 Quit India Movement and was awarded a Tamrapatra (Copper

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Plaque) in the year 1972. At that time, the petitioner's father had suffered two and a half years of imprisonment during the freedom struggle. The Central Government had come with a scheme for grant of pension to the freedom fighters and their families during 25th Anniversary of India's Independence. The scheme commenced on 15th August, 1972. In 1980, the scheme was more liberalized and renamed as 'Swatantra Sainik Samman Pension Scheme, 1980'. The family pension was extended only to widows and unmarried daughters of deceased freedom fighters but then excluded unmarried sons. The learned Advocate for the petitioner submits that the said scheme is violative of Article 14 of the Constitution of India and it excludes unmarried sons from the purview of the said scheme. It is violative of Article 21 of the Constitution of India also i.e. right to life which includes the right to live with dignity. The scheme also suffers from unreasonable classification and gender-based discrimination as unmarried sons have been kept out of reach of the scheme. There is a doctrine of legitimate expectation from the Central Government. The scheme also suffers from violation of the principles of natural justice when persons like the petitioner are not even heard. The petitioner deserves to be afforded equal treatment in pensionary matters. The scheme is arbitrary and unconstitutional. The petitioner has no other forum to approach and, therefore, has filed the present petition.

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3. We are not in agreement with the submissions made on behalf of the petitioner. The scheme was specifically formulated by the Government in the honour of the freedom fighters and their families. It is worth noting that even in the said scheme, certain freedom fighters appear to have not been included; however, among them, eligible individuals have been carved out, and the eligible dependents have also been specifically prescribed. It has been stated that after the death of freedom fighter pensioner, eligible dependents for family pension are spouse/unmarried daughter and unemployed daughters/mother or father and at one point of time not more than one category of eligible dependent/s can be granted pension. In the event of availability of more than one category of dependents, the sequence of eligibility will be widow/widower, unmarried and unemployed daughters (up to maximum 3 daughters), mother or father. The scheme has been in existence since 1980. Though it has not been pleaded by the petitioner, upon inquiry, the learned Advocate for the petitioner submits that the petitioner's father was getting a pension but is unable to provide the date of death of the petitioner's father. The question of eligible dependency would have arisen only upon the death of the freedom fighter, and therefore, that date was necessary. Secondly, why the petitioner had not approached the authority immediately has not been stated at all. The petitioner has annexed the reminder given by him to

the Union of India on 06.10.2021, and his applications to the Hon'ble Prime Minister of India dated 10.11.2021 and 13.09.2022. However, in those representations/reminders, he had not given the date of death of his father. The question arises as to why he did not approach this Court at an earlier point of time, even after the rejection communicated by the Union of India on 29.10.2021, wherein it was specifically mentioned that he does not fall within the category of eligible dependents as per the 1980 scheme, and therefore, his application could not be considered.

4. While framing a scheme for the grant of pension to freedom fighters, or any other scheme, the Constitution of India empowers the Government to make reasonable classifications and distinctions for the welfare of any group or class. Specifically, in respect of women, such classification is justified and has been upheld in a catena of judgments by the Hon'ble Supreme Court. Now, the petitioner appears to be seeking the benefit on the count that since the unmarried and unemployed daughter has been covered under the eligible dependent, the unmarried and unemployed son also be included, is the petitioner's contention.

5. The first and foremost fact to be noted is that the petitioner has neither demonstrated nor pleaded any reason as to why he could not

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secure any employment from the time he attained majority until now, i.e., at the age of 55 years. We do not find the classification or the restriction of the application of the scheme to widows, unmarried and unemployed daughters, etc., to be violative of any of the Articles referred to in the pleadings. Therefore, there is absolutely no merit in the present petition, and it is dismissed at the threshold.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane