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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 01st November, 2025

+ W.P.(C) 7957/2011
SAVITRI DEVI

.....Petitioner

Through: Mr. Abinash Kumar Mishra and Mr.
Gaurav Kumar Pandey, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Rajesh Kumar, SPC with Mr.
Yash Narain, Advocate for R-1 and
R-2.

None for R-3.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present writ petition, filed under Article 226 read with Article 227 of the Constitution of India, the petitioner impugns orders dated 11.12.2006 and 04.12.2009 passed by respondents Nos. 1 & 2 and respondent No. 3 respectively. The petitioner also seeks directions to respondents Nos. 1 and 2 to grant her pension under the *Swatantrata Sainik Samman Pension Scheme, 1980* ('Pension Scheme'), which grants pension to living freedom fighters and their eligible dependents.

2. Notice on the present petition was issued *vidé* order dated 11.11.2011, and the matter was admitted to the Regular Board *vidé* order dated 09.01.2013.
3. Counter-affidavits dated 12.03.2012 and 05.09.2012 have been filed on behalf of respondents Nos. 1 & 2 and 3, respectively; in response



to which a consolidated rejoinder affidavit dated 07.01.2023 has been filed by the petitioner.

4. Written synopsis dated 15.03.2023 have been filed on behalf of the petitioner and respondents Nos. 1 and 2.

PETITIONER'S SUBMISSIONS

5. Mr. Abinash Kumar Mishra, learned counsel appearing for the petitioner, submits that the petitioner's claim to pension arises from the fact that her husband - late Raghuvir Singh - participated in the freedom struggle in 1942; and, in that context, on 12.12.1942, he was awarded rigorous imprisonment of 6 months for certain penal offences. It is stated that Raghuvir Singh served his sentence partly at the District Jail, Meerut, and partly at the Central Jail, Agra, to which he was transferred on 23.12.1942, whereafter he was released on 28.05.1943. It is submitted that it is the admitted position that the petitioner's husband served a sentence of 6 months from 12.12.1942 to 28.05.1943 in the District Jail, Meerut, and thereafter in the Central Jail, Agra, when counted along with remission of 13 days that he earned, as per communication dated 31.01.1986 of the Government of Uttar Pradesh ('U.P.').
6. The petitioner's husband finally retired from service in 1985 as a Panchayati Raj Officer under the U.P. Government, whereupon he applied for grant of pension under the Pension Scheme.
7. In response to a letter dated 08.11.1985, addressed by the Central Government seeking verification of the records of imprisonment of the petitioner's husband, *vidé* letter dated 31.01.1986, the State of U.P. confirmed the period of imprisonment undergone by the



petitioner's husband and recommended him for receiving pension under the Pension Scheme. Subsequently, however, the petitioner's husband passed away on 03.07.1986, whereafter the petitioner pursued the Central Government for grant of pension to her in terms of the Pension Scheme, being the widow of a freedom fighter. It may be mentioned that the U.P. Government has already granted pension to the petitioner *w.e.f.* 01.03.1986 under their own pension scheme called the *U.P. Swatantrata Sangram Senani Pension Rules, 1975*.

8. However, *vidé* letter dated 10.06.1999, the Central Government rejected the petitioner's claim for pension on two grounds: *firstly*, that the petitioner's husband had two wives, *viz.*, the petitioner and one Krishna Devi; but Krishna Devi's name did not figure in the application filed by the petitioner or by her deceased husband; and *secondly*, that the name of the petitioner's husband's father in the jail certificate, as submitted by the petitioner, appears as Shri Deen Dayal, resident of Village Malmajra, whereas the name of the father was recorded in the jail register as Shri Devi Dayal Jat, resident of Village Zimana.
9. In response to the aforementioned objections raised by the Central Government, *vidé* application dated 26.11.1999, the petitioner approached the competent authority *viz.*, the Tehsildar Badot, Janpad : Baghpat, for rectification of the records pursuant to which the competent authorities issued multiple certificates, one of them dated 02.01.2003, which certificates confirmed that the name of the petitioner's husband's father was Shri Din Dayal @ Devi Dayaland that Village Malmajra is part of Village Jiwana. It was also verified



that late Raghubir Singh had two wives during his lifetime, one being the petitioner and the other being Smt. Krishna Devi.

10. It is contended that despite the aforementioned clarifications, the petitioner's claim was again rejected by the Central Government *vidé* letter dated 11.12.2006 inter alia on the ground that the U.P. Government did not specifically recommend her late husband's claim, which was mandatory under the Pension Scheme; as well as for suppression of the name of the second wife of the petitioner's late husband.
11. Subsequently, the second wife of the petitioner's late husband, who is in fact the petitioner's real sister, submitted an affidavit dated 06.07.2007 confirming that the petitioner is her real elder sister and that she has no objection to the petitioner being given pension under the Pension Scheme.
12. Thereafter, *vidé* letter dated 24.04.2009, the Central Government again sent the documents submitted by the petitioner for verification to the U.P. Government, to which the U.P. Government responded *vidé* letter dated 29.10.2009, certifying the correctness of the documents filed by the petitioner before the Central Government.
13. But yet again, by its communication dated 18.11.2009, the Central Government rejected the petitioner's claim for a third time, by erroneously relying on its own earlier communication dated 11.12.2006, ignoring the subsequent verification of the documents done by the U.P. Government which were submitted by the petitioner to the Central Government, which had answered all the discrepancies that had been pointed-out by the Central Government earlier. This



culminated in the issuance of letter dated 04.12.2009 by the U.P. Government, informing the petitioner that her application for pension under the Pension Scheme had been rejected by the Central Government *vidé* its letter dated 11.12.2006.

14. The portions of the Pension Scheme that are relevant for the purposes of the present proceedings, as set out in the counter affidavit filed by respondents Nos. 1 and 2, read as follows:

“3.1 Imprisonment suffering:- A person who had suffered minimum imprisonment of six months (3 months in case of women and SC/ST freedom fighters) on account of participation in the freedom struggle subject to furnishing of the following evidences.

[a] Primary evidence:- Imprisonment/detention certificate from the concerned jail authority, District Magistrate or the State Government indicating the period of sentence awarded, date of admission, date of release, facts of the case, and reasons for release.

[b] Secondary evidence:- In case official records of the relevant period are not available, secondary evidence in the form of 2 co-prisoner certificates (CPC) from central freedom fighter pensioners who have proven jail suffering of minimum 1 year and who were with applicant in the same jail could be considered provided the State Government/Union Territory Administration concerned, after due verification of the claim and its genuineness, certifies that documentary evidence from the official records in support of the claimed sufferings were not available. In case the co-prisoner was a sitting or Ex-MP/MLA, only one certificate in place of the two is required. In the case of persons belonging to INA category, only one CPC is required.

“3.2 Where records of relevant period are not available, Non-availability of record certificate (NARC) from the concerned authority is a pre-requisite for secondary evidence. The NARC



should not be general or vague and should conform to the instructions issued by the Govt. of India, Ministry of Home Affairs (MHA). The instructions inter alia require the State Government to issue NARC only after due verification from all sources. The NARC is treated as valid only when the State Government furnishes it in the following manner.

“All concerned authorities of the State Government who could have relevant record in respect of the claim of the applicant have been consulted and it is confirmed that the official record of the relevant time are not available.”

“3.3 That for the claims of underground sufferings, documentary evidence by way of Court's/Government's order proclaiming the applicant as an offender, announcing an award on his head or for his arrest or ordering his detention. In the absence of such certificate from official records, a Non-Availability of Records Certificate (NARC) from the concerned authorities along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who had undergone imprisonment for a period of at least two years or more is required.

“3.4 The claims of Samman pension can be considered by the Central Government only when these are duly verified and recommended by the State Governments/Union Territory Administrations concerned, in accordance with the provisions of the Scheme. As per the Scheme, the verification and recommendation report is mandatory in view of the fact that the documents and other evidence of the claims are in the possession of the State Government/Union Territory Administrations concerned and not of the Central Government. However, it is also to mention that the Central Government has to keep all the documents/reports/evidence in view and take a decision strictly in accordance with the eligibility criteria and evidentiary requirements of the Swatantrata Sainik Samman Pension Scheme, 1980. A positive recommendation of the State Government is therefore not binding on the Central Government (if the claim does not satisfy the eligibility criteria and evidentiary requirements prescribed under the Central Scheme).”



RESPONDENTS' SUBMISSIONS

15. On the other hand, Mr. Rajesh Kumar, learned SPC appearing on behalf of respondents Nos. 1 and 2 submits that the petitioner cannot claim pension under the Pension Scheme only on the basis that she is already drawing pension under the U.P. Freedom Fighters' Pension Scheme from the State Government, since the pension schemes operated by the Central Government and the State Government are distinct, with separate provisions regarding eligibility criteria and evidentiary requirements.
16. It is submitted that the Pension Scheme operated by the Central Government is a document-based scheme; and since the petitioner has repeatedly failed to provide the documents as required under the Pension Scheme, her claim for pension under the Pension Scheme has been rejected *vidé* letter dated 10.06.1999 and subsequently *vidé* letter dated 11.12.2006.

DISCUSSION & CONCLUSIONS

17. Upon a conspectus of the submissions made, as well as documents on record, the following inferences clearly arise:
 - 17.1. It is the admitted position that the petitioner's husband underwent rigorous imprisonment for 6 months, *viz.*, 167 days actual imprisonment plus 13 days remission earned, as confirmed by the U.P. Government in their communication dated 31.01.1986 and as per the jail records, copies of which have been appended to the petition. The discrepancy raised by the Central Government as to the name of the petitioner's husband's father also stands clarified and addressed by way of



various communications *inter alia* letter dated 02.01.2003 sent by the Division Development Officer, Binouli, Baghpat, which confirms that the name of the father of the petitioner's husband was Din Dayal @ Devi Dayal.

- 17.2. Furthermore, the other ground for rejection of the petitioner's claim, *viz.*, that her late husband had two wives, was also duly addressed since the second wife, Krishna Devi, has issued an affidavit stating that she had no objection if the pension under the Pension Scheme is paid to her elder sister, the petitioner.
- 17.3. Lastly, by its certificate dated 02.11.2003, the Division Development Officer, Binouli, Baghpat has clarified that the petitioner's late husband was a resident of Village and Post Office Jiwana (Malmazra), Tehsil Banouli; and that this village was subsequently merged into the Gram Panchayat, Jiwana, in Tehsil Badot, District Baghpat, U.P.
- 17.4. It is also clear from the record that the last rejection of the petitioner's claim by the Central Government *vidé* communication dated 18.11.2009 was evidently erroneous, since it proceeded on the records of the previous rejection dated 11.12.2006, while completely ignoring that the discrepancies pointed out by the Central Government earlier had been duly addressed as explained above; and the communication dated 04.12.2009 issued by the U.P. Government to the petitioner, communicating to her the rejection of her claim for pension under the Pension Scheme, proceeded purely on what the Central Government had stated in their letter dated 18.11.2009.



18. In the circumstances, this court is of the view that the petitioner has satisfied all requirements under the Pension Scheme and is therefore entitled to pension under that Pension Scheme on behalf of her late husband.
19. As per the counter-affidavit filed by the U.P. Government, the petitioner's husband was granted freedom fighters' pension under the *U.P. Swatantrata Sangram Senani Pension Rules, 1975* *vidé* order dated 24.02.1986 *w.e.f.* 01.03.1986. That said, however, since it is also the admitted position that the petitioner applied for pension under the Pension Scheme *vidé* application dated 18.12.1986, which was duly acknowledged by the Central Government in their communication dated 10.06.1999, this court is of the view that the petitioner is entitled to pension under the Pension Scheme *w.e.f.* 18.12.1986.
20. As a sequitur to the above discussion, the writ petition is allowed; and respondent Nos. 1 and 2 are directed to release to the petitioner all arrears of pension under the *Swatantrata Sainik Samman Pension Scheme, 1980* within 08 weeks and to continue paying such pension, regularly and punctually, for the future period till the time the petitioner remains eligible for it.
21. The writ petition is disposed of in the above terms.
22. Pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 01, 2025/ak