

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 26545 of 2025

With

CAN No. 1 of 2025

Bisnupada Jana

Vs.

The Union of India & Ors.

Mr. Ramdulal Manna

Mr. Sabyasachi Mondal

Mr. Sayan Mukherjee

Ms. Payel Khanra

....For the petitioner.

Mr. Asok Kumar Chakraborti, Ld. A.S.G.I.

Mr. Sukumar Bhattacharya

Mr. Arijit Majumdar

Ms. Shreyashi Sarkar

....For the Union of India.

Mr. Jayanta Samanta

Mr. Tapas Ballav Mandal

....For the State.

Hearing Concluded On : 08.04.2026

Judgment On : 30.04.2026

Krishna Rao, J.:

1. The applicants have filed the present application for recording the death of the petitioner and to substitute the applicants as writ petitioners in place of the deceased petitioner.
2. The writ petitioner was the father of the applicants. The writ petitioner died on 20th December, 2025. The wife of the writ petitioner had predeceased to him, who died on 13th July, 2020. The writ petitioner died leaving behind the applicants as his legal heirs and legal representatives.
3. Now the applicants are intending to be substituted in place of their father as the writ petitioners, to continue with this writ proceeding for grant of Freedom Fighter's Pension from 13th August, 1981, along with interest till the date of making actual payment.
4. The respondents have raised objections for substitution of the applicants as writ petitioners in place of their deceased father. Mr. Asok Kumar Chakraborti, Learned A.S.G.I., representing the Union of India submits that in the pension application, the deceased writ petitioner has provided the details of the dependant family members including mother, father, widowed, widow (if she has not re-married and unmarried daughters) wherein the name of the applicant no.2, namely, Sukumar Jana is not appearing. He submits that the married daughters cannot be treated as dependant of the deceased.

5. Mr. Chakraborti submits that as per prayer (A) of the writ petition, the writ petitioner had filed an application for grant of Freedom Fighters' pension on 13th August, 1981 but the writ petition is filed on 19th November, 2025, that is after a period of 44 years, thus, the writ petition itself is not maintainable.

6. Mr. Chakraborti submits that the application filed the writ petitioner dated 13th August, 1981, is rejected by the Government of India on 24th July, 1986 and the same was duly communicated to the petitioner. He submits that in the communication dated 24th July, 1986, it is mentioned that the claim of the writ petitioner does not come within the provisions of the Scheme as the documentary evidence submitted by the writ petitioner alongwith the application does not prove his claim. In support of his submissions, he has relied upon the judgment in the case of ***Union of India Vs. A. Alagam Perumal Kone and Others*** reported in ***(2021) 4 SCC 535*** and submits that once the application of the writ petitioner was already rejected in the year 1986 and the said order of rejection became final, it is not open for the writ petitioner to make claim in the second time for pension.

7. Mr. Chakraborti submits that the claim of the writ petitioner is on the basis of the certificate issued by Rabindra Nath Giri. He submits that the said Rabindra Nath Giri has issued several certificates to several persons for claiming Freedom Fighters' Pension and the certificates issued by Rabindra Nath Giri is in question and inquiry is pending before the Hon'ble Supreme Court. Mr. Chakraborti further relied upon

the judgment in the case of ***Union of India Vs. Krishna Modi and Another*** reported in **(2022) 5 SCC 731** and submits that under the scheme, a person eligible for the benefit should have remained underground for more than six months, provided he was a proclaimed offender, or he was awarded for arrest/head was announced or one for detention order was issued but not served.

8. Mr. Chakraborty further submits that Clause 1.5 of the Guidelines for disbursement of Central Samman Pensions, no pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. The said clause also provides that no life time arrears or dependant pension shall be sanctioned to his/her spouse/daughter after the death of the freedom fighter.
9. In the application filed by the writ petitioner dated 13th August, 1981, the petitioner has provided the following details of dependant family members:

Name	Age	Relationship
(i) <i>Smt. Bani Jana</i>	- 44	- Wife
(ii) <i>Sunil Jana</i>	- 13	- Son
(iii) <i>Susama Jana</i>	- 11	- Daughter
(iv) <i>Surama Jana</i>	- 8	- Daughter

10. The wife of the writ petitioner had predeceased him. The writ petitioner died on 20th December, 2025. After the death of the writ petitioner, the applicants have filed the present application for substitution. In the application, there is one applicant, namely, Sukumar Jana but neither

in the present application nor in the writ petition, there is any description about Sukumar Jana. In the present application also the applicants have not filed any documents to establish the relationship of Sukumar Jana with the writ petitioner.

11. Clause 1.5 of the Scheme issued by the Ministry of Home Affairs, FFR Division for Guidelines for disbursement of Central Samman Pensions provided that:

“1.5 Sanction of pension after the death of Freedom Fighter – No pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. This also entails that no Life time arrears or dependent pension shall be sanctioned to his/her spouse/daughter after the death of the freedom fighter.”

12. The applicants have relied upon the judgment passed by this Court in the case of **Kali Krishna Bera & Others Vs. The Union of India & Others** passed in **WPA No. 598 of 2016** dated **9th February, 2022** and submits that this Court has decided the issue with regard to Clause 1.5 of the Scheme and the same was duly affirmed by the Hon’ble Division Bench of this Court in **MAT No. 694 of 2022** with **MAT No. 1904 of 2022** dated **22nd June, 2023**. In the said case, this Court finds that the order of rejection for grant of Freedom Fighters’ Pension of the petitioner was rejected by the Government and the order of rejection was challenged by the petitioner in the said writ application. The order of rejection was much prior to the Scheme of 2014. But in the present case, the petitioner has not challenged the

order dated 24th July, 1986, issued by the Ministry rejecting the application filed by the writ petitioner dated 13th August, 1981 and the petitioner has filed the present writ application on 19th November, 2025 and the writ petitioner expired on 20th December, 2025.

13. In the case of **A. Alagam Perumal Kone & Ors. (supra)**, the Hon'ble Supreme Court held that:

“25. It is the case of the appellant that the documentary evidence filed by the 1st respondent is not in compliance of the scheme. It is a matter which is to be left to the competent authority to consider. When the application of the 1st respondent is already rejected in the year 1997, when such rejection order has become final, it is not open for the 1st respondent to make a claim for the second time for pension again by way of a fresh application. The 1st respondent would be entitled to the benefits of this scheme, if he produces the relevant material in support of his claim. As regards the sufficiency of proof, the scheme itself mentions the documents which are required to be produced along with the application. Whether the claimant fulfils the criteria or not, it is for the competent authority to examine it. Even before the application is considered by the competent authority, in exercise of powers of judicial review, the High Court should not have issued any directions for grant of pension.”

14. In the case of **Krishna Modi & Anr. (supra)**, the Hon'ble Supreme Court held that:

12. There is no denial of the fact that the claim of Respondent 1 was, for the first time, made on 27-12-1982, whereas the Freedom Fighters' Pension Scheme existed in year 1972, which was only amended in the year 1980. Hence, it cannot be said that the respondent filed his claim promptly. Under the said scheme, a person eligible for the benefit should have remained underground for more than six months, provided he was a

proclaimed offender; or one on whom an award for arrest/head was announced; or one for whom detention order was issued but not served. In the present case, there is no order by which Respondent 1 was declared as a proclaimed offender.”

15. The applicants have filed the present application for substitution but have not justified with regard to one of the applicant, namely, Sukumar Jana of his relationship with the deceased writ petitioner. The writ petitioner during his life time filed an application for grant of Freedom Fighters' Pension by an application dated 13th August, 1981 and the same was rejected by an order dated 24th July, 1986. The writ petitioner during his life time has not challenged the said order of rejection. In the present writ application, there is challenge of the said order of rejection.
16. The applicants have relied upon the judgment in the case of **Shiv Dass Vs. Union of India and Others** reported in **(2007) 9 SCC 274** wherein the Hon'ble Supreme Court held that :

“10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit the appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

- 17.** The judgment of ***Shiv Dass (supra)*** is not applicable in the present as it is not only the stand of the respondents that the claim of the writ petitioner is barred by limitation, it is also the case of the respondents that the writ petitioner has not challenged the order of rejection dated 24th July, 1986 and the same attained finality.
- 18.** Considering the above, this Court did not find any merit to allow the application filed by the applicants for substitution, accordingly, **CAN No.1 of 2025** is **dismissed**. Consequently, **WPA No. 26545 of 2025** is also **dismissed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)