
(1998) 11 PAT CK 0024
In the Patna High Court
Case No : C.W.J.C. No. 5453 of 1997

Abdul Ghaffar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-11-1998

Acts Referred:

Citation : (1999) 1 PLJR 66

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Kamal Nayan Choubey and Tej Bahadur Singh, for the Appellant;
Manu Shankar Mishra, for Union, for the Respondent

Final Decision : Dismissed

Judgement

N. Pandey, J.—Heard parties.

2. This writ petition has been filed for quashing of the order of the Deputy Secretary (Respondent No. 3) Ministry of Home, Government of India, Freedom Fighter Section, Lok Nayak Bhawan, New Delhi, as contained in Annexure-1, whereby Petitioner's claim for grant of freedom fighter pension was rejected.

3. The case of the Petitioner is that during the freedom movement in the year 1942-43, he had taken active part and remained underground with effect from 2.9.1942 to 8.3.1943 since he was wanted by the Police in a criminal case. Petitioner, therefore, keeping in view the Government scheme, to grant pension to such freedom fighters, made an application along with a certificate granted by Abdul Hamid, one of the Chief Freedom Fighters. The Petitioner noticed that in spite of all the formalities having been completed by the State Government, no order was passed by the Central-Government filed CWJC No. 4416 of 1995 which was disposed of on 7.9.1995 with a direction to dispose of the claim of the Petitioner positively within a period of two months. Thereafter, as would appear from the order contained in Annexure 13, dated 8.12.1995. the claim of the Petitioner was rejected since documents filed by him in proof of his case were

found doubtful.

4. Petitioner thereafter filed another writ application bearing CWJC No. 378 of 1996 which was permitted to be withdrawn with liberty to the Petitioner to move the concerned authority of the Central Government to satisfy that certificate of Abdul Hamid was genuine. It was further observed that in case the authorities are satisfied that the Petitioner had fulfilled all the requirements as per the provisions of the scheme, they can take fresh decision. Undisputedly, after disposal of the said petition, the matter was disposed of afresh by the impugned order holding that the claim of the Petitioner of absconder from 2.9.1942 to 8.3.1943 was doubtful. The order further says that the claim of the Petitioner is full of contradictions. In the application, he had mentioned that in Mahnar P.S. Case No. 2(9) 42, he had remained under ground from 2.9.1942 to 8.5.1943 and subsequently released on bail. According to the Respondents, if the case of the Petitioner is accepted that he remained underground from 2.9.1942 to 8.3.1943, how he was bailed out when he was not arrested. Secondly, no document was shown when the criminal case was actually disposed of. Therefore, noticing such contradictions, the Respondents found the case of the Petitioner doubtful.

5. Learned Counsel appearing for the Petitioner contended that the authorities have completely failed to consider the certificate granted by Abdul Hamid, Chief Freedom Fighter. He contended that a bare reference to the Government scheme, would indicate that in case the Court or jail records are not available, the claim of freedom fighters for grant of pension can also be considered on the basis of the certificate granted by a co-prisoner. The Respondents had themselves placing reliance on the certificate granted by Abdul Hamid, had allowed claim of three persons but in the case of the Petitioner, a discriminatory stand has been taken.

6. Learned Counsel for the Union of India contended that in view of such contradictory stand of the Petitioner about his being underground or released from jail, it was quite justified for the Respondents to raise doubt about the genuineness of the claim. That apart, a bare reference to the materials brought on record would indicate that the claim of the Petitioner was twice rejected after giving him full opportunity to satisfy his claim. But unfortunately, the Petitioner was not able to produce any authentic document in support of his claim. He further contended that the Supreme Court having regard to similar claim of another freedom fighter in Civil Appeal No. 12314 of 1996 held that in such matters it would be the satisfaction of the Central Government to find out whether there was sufficient proof on record that the concerned claimant had absconded in a criminal case or had suffered imprisonment. High Court cannot embark upon to find out whether sufficient proof was brought on record in support of the claim.

7. In my view, the stand of the learned Counsel for the Union of India appears justified. Because apart from the contradictory stand of the writ Petitioner, his claim was considered twice but was not found satisfactory. That apart, save and

except, the certificate of Abdul Hamid, no other authentic document was produced on the basis of which a different stand can be taken. It has also been rightly pointed out that as regards sufficiency of proof, documents are required to be produced before the Government. It is not possible for the High Court to scrutinise the document, which according to the Petitioner, he had produced in support of his claim. It is the function of the Government to scrutinise such documents and record a finding.

8. I, therefore, for the reasons stated above, find no reason to interfere with the impugned order. Accordingly the writ application is dismissed.