

(2016) 03 PAT CK 0002

In the Patna High Court

Case No : Letters Patent Appeal No.1878 of 2012 IN Civil Writ Jurisdiction Case
No. 16898 of 2011

Akhilesh Narayan Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 01-03-2016

Acts Referred:

Citation : (2017) 1 PLJR 79

Hon'ble Judges : Mr. Hemant Gupta And Mr. Navaniti Prasad Singh, JJ.

Bench : Division Bench

Advocate : Mr. Sanjay Kumar, A.S.G. Mr. Kinkar Kumar, S.C. 27, for the Respondent; Mr. Nadim Seraj, Advocate. Mr. Shailesh Kumar, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J.(Oral) - Heard learned counsel for the appellant and the State.

2. The challenge in the present Letters Patent Appeal is to an order dated 27th August, 2011 passed in C.W.J.C. No. 16898 of 2011, whereby the claim of the appellant for grant of Swatantrata Sainik Samman Pension on account of his alleged participation in a freedom struggle from 15th of August, 1942 to 5th of December, 1943 by remaining underground was not interfered with in the writ petition.

3. As per the appellant, his date of birth is 1st of February, 1931 and as a child of 11 years he remained underground in the stated period. It has also come on record that he joined Government service disclosing his date of birth as 1st of February, 1934 and attained the age of superannuation after working for 36 years.

4. The appellant applied for Freedom Fighters Pension vide Annexure-3 wherein he disclosed his occupation as service. He has not disclosed that he was a State

Government employee.

5. The appellant was granted Freedom Fighters Pension with effect from 6th of February, 1998 but subsequently it was stopped on 13th of October, 2000 after a show-cause notice was served upon the appellant on 4th of July, 2000. In an inquiry conducted, it was, inter alia, found that the appellant was eight years of age in the year 1942 and therefore, he could not have participated in the freedom struggle. It was also found that the appellant has produced duplicate copy of the Matriculation Certificate though he is in Government service and given different date of birth. The petitioner challenged such order of cancellation before this Court and another order was passed on 2nd of November, 2010 (Annexure-15). A perusal of the said order shows that the appellant has admitted that he was appointed in Bihar Government and worked for 36 years in various departments. He also stated that no age limit has been prescribed by Home Ministry for taking part in the freedom movement. It was also found that the pension was granted on account of a Personal Knowledge Certificate of Sri Madan Mohan Singh but no documentary evidence has been given in support of the fact that the appellant remained underground from 15th of August, 1942 to 5th of December, 1943. In the record produced by the appellant, case number in which the appellant was involved, date of institution, disposal, section or law under which the case was instituted has not been given. The G.R. of the year 1942 is not available. Hence, the record could not be verified. Again the said order became subject matter of challenge before this Court and the matter was sent for reconsideration. It is thereafter the order dated 3rd of June, 2011 (Annexure-19) has been passed holding that appellant is not eligible for grant of Freedom Fighters Pension and that there is no possibility to restore the pension of the appellant.

6. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal. The scheme of Freedom Fighters Pension is not only to grant source of livelihood to the freedom fighters who participated in the freedom struggle but also to honour them. As per the Bihar Government record, his date of birth is 1st of February, 1934. Therefore, he would be only eight years of age in the year 1942 when he is said to have participated in the freedom struggle. As per his date of birth, he was born on 1st of February, 1931. In either case, he was not more than 11 years of age in the year 1942 when he is said to have gone underground for a period of 1? years. There is no detail of the case in which he was involved in the freedom struggle and has to go underground. As a child of 11 years, when he is immature in understanding, as per Section 83 of the Indian Penal Code, it is impossible to imagine that the appellant was involved in freedom struggle from 15th of August, 1942 to 5th of December, 1943. In the absence of any evidence of his involvement in a freedom struggle and more so keeping in view his age and the fact that he was in a Government service and worked for 36 years, the claim for grant of Freedom Fighters Pension has rightly been revoked.

7. In view of the discussion above, we do not find any merit in the present appeal. The Letters Patent Appeal is thus dismissed.