
(2014) 04 AHC CK 0038
In the Allahabad High Court
Case No : C.M.W.P. No. 36890 of 2011

Azimuddin Ansari

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Citation : (2014) 6 ADJ 60 : (2014) 5 ALJ 4 : (2014) 104 ALR 286 : (2014) 5 AWC 5414 : (2014) 142 FLR 155 : (2014) 2 UPLBEC 1636

Hon'ble Judges : Tarun Agarwala, J;Rajan Roy, J

Bench : Division Bench

Advocate : M.A. Khan, Advocate for the Appellant; K.D. Malviya, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Tarun Agarwala and Rajan Roy, JJ.—The Government of India introduced a scheme for grant of pension to freedom fighters and their eligible dependents. The scheme was liberalized and renamed as "Swatantrata Sainik Samman Pension Scheme, 1980" which was made effective from 1st August, 1980. From time to time, the scheme has been modified by issuance of different orders and circulars by the Government of India. Under the Scheme, all persons who participated in the freedom movement in some way or the other were eligible for the Samman Pension. One of the requirement for a person to receive pension is that a person must have suffered a minimum imprisonment of six months on account of participation in freedom struggle and would be eligible subject to furnishing certain evidence namely, (a) Imprisonment/detention certificate from the concerned jail authority, District Magistrate or the State Govt. indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release;

(b) In case records of the relevant period are not available, the secondary evidences in the form of 2 co-prisoner certificates (C.P.C.) from freedom fighters who have proven jail suffering of minimum 1 year and who were with the

applicant in the jail could be considered provided the State Government/Union Territory Administration concerned, after due verification of the claim and its genuineness, certifies that documentary evidences from the official records in support of the claimed sufferings were not available. In case the certifier happens to be a sitting or Ex. M.P./M.L.A., only one certificate in place of the two is required.

In the Scheme, a person was required to apply for the pension in the prescribed application form, which was required to be sent to the Chief Secretary of the concerned State Government and thereafter it was to be forwarded to the Deputy Secretary of the Government of India, where the claims were required to be processed after receipt of verification and entitlement of such pension report.

2. In the light of the aforesaid Scheme, the petitioner applied. Directions were issued to the Authority to make necessary inquiry, and, it transpires that the Tehsildar made a spot inspection and enquired in the matter and in its report recommended the claim of the petitioner annexing the secondary evidence of statements of co-prisoners. The report of the Tehsildar as well as the recommendation of the District Magistrate was forwarded to the State Government. It transpires that the State Government forwarded the matter to the Central Government, who after consideration rejected the claim by an order dated August, 2009. The Ministry of Home Affairs held:

3. After examination of the case, it is found that Shri Azimuddin Ansari is not eligible for the grant of pension under S.S.S. Pension due to the following reason:

(i) State Government has not forwarded the application of Shri Azimuddin Ansari in the prescribed form and also not recommended his case for grant of Samman Pension as from their verification.

(ii) No primary/secondary acceptable documents from official records have produced in support of his claimed sufferings.

The petitioner, being aggrieved, has filed the present writ petition.

3. Having heard the learned Counsel for the parties and having perused the report of the District Magistrate as well as the report of the Tehsildar, one finds that ample proof was brought on record with regard to direct and indirect evidence. The petitioner has filed a certificate issued by the Jail Authorities and statements of co-prisoners have been recorded. All these documents and evidence should have been sent by the State Government to the Central Government as per the prescribed format. Consequently, we dispose of the writ petition directing the State Government to forward the relevant papers of the petitioner afresh to the Central Government within four weeks from the date of presentation of the certified copy of this order. Upon receipt of the paper, the Central Government will process and pass final order within six weeks thereafter.