
(2008) 04 JH CK 0039
In the Jharkhand High Court

Durga Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-04-2008

Acts Referred:

Citation : (2008) 2 JCR 505

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—Petitioner has filed this writ petition for a direction to the respondents to grant monthly pension to him under Freedom Fighters Pensionary Scheme, 1980 on the ground that he took part in freedom movement in 1942.

2. It is submitted by Mr. Rajesh Kumar, appearing for the petitioner, that though records of the police case, in which petitioner was imprisoned, are not available, but the companion of the petitioner filed affidavit that petitioner was also one of the freedom fighters, and moreover everybody addresses/recognizes him a freedom fighter. He relied on paragraph 8 of the judgment reported in Mukund Lal Bhandari and others Vs. Union of India and others, .

3. Admittedly, the pension scheme came into force in 1972, which was refrained in 1980 and then in 1985.

4. According to the petitioner, he was entitled to the family pension as per the original scheme of 1972 itself but it appears that he made an application for the first time sometimes in the year 1996, which was forwarded to the Home Department of the Central Government. Petitioner's claim was rejected by the said department by" letter dated 16th May, 1997 on the ground that he could not produce anything in support of his claim. Thereafter in 2001, petitioner moved the Superintendent of Police, Koderma requesting him to issue certificates in his favour, on which inability was expressed by the Superintendent of Police saying that after 58-59 years, the records of the case referred by the petitioner were

not available.

5. The case of Mukund Lal Bhandari (supra) relied by the petitioner is of no help to him. It appears from paragraph 5 thereof that it was found that petitioners therein were undisputedly entitled to the benefit of the scheme, as they produced, the relevant materials in support of their claim and this was undisputed on behalf of the Union of India. Then in Paragraph 6 it was said that "as regards the sufficiency of the proof, the Scheme itself mentions the documents which are required to be produced before the Government. It is not possible for this Court to scrutinize the documents which according to the petitioners, they had produced in support of their claim and pronounce upon their genuineness. It is the function of the Government to do so. We would, therefore, direct accordingly".

However, the contention of the respondents therein that the applications were filed after the date prescribed, was not found justifiable in the facts and circumstances mentioned in para 7. So far as para 8 relied by the petitioner is concerned, it related to the contention of the respondents therein that the benefits can be extended only from the date the claimant produces the required proof of his eligibility. In this regard, it was said that it is unreasonable to expect that the freedom fighters and their dependents, would be readily in possession of the required documents, which may have to be secured from different sources which is bound to take time and therefore it was said that "once the applications made, even if it is unaccompanied by the requisite eligibility data, the date on which it is made should be accepted as the date of the preferment of the claim whatever the date on which the proof of eligibility is furnished". Thus, it was not held that the benefit should be given without any proof. It is not the case of the petitioner that he furnished documents in support of his claim, as required under the scheme. This is not a case where for filing the proof beyond the time, petitioner's claim has been rejected or benefit has been granted from the date of filing of proof, and not from the date of application.

6. In the present case, even according to the petitioner, he was entitled to pension under the Scheme of 1972 but he made application for the same after about 24 years in 1996. In 1997, the claim was rejected on the ground of non-production of evidence in support of his claim. Thereafter, in the year 2001, he tried to obtain the proof but due to lapse of more than 50 years, the relevant records were not available in the concerned police station.

7. In the facts and circumstances, noticed above, no relief can be granted to the petitioner. Even remitting this stale claim, without proof, will not be proper.

8. Accordingly, this writ petition is dismissed. However, no costs.