

**(1995) 08 DEL CK 0040**  
**In the Delhi High Court**  
**Case No : C.W.P. No. 1198 of 1994**

Ganga Bai

APPELLANT

Vs

Union of India

RESPONDENT

**Date of Decision :** 09-08-1995

**Acts Referred:**

**Citation :** AIR 1996 Delhi 257

**Hon'ble Judges :** Dr. M.K. Sharma, J;D.P Wadhwa, J

**Bench :** Division Bench

**Advocate :** R.K. Kapoor, for the Appellant; Madan Lokur and Ms. Nandini Ramachandran, for the Respondent

## **Judgement**

Dr. M. K. Sharma, J.—By this writ petition the petitioner has sought for a direction to the respondents for grant of freedom fighters pension to the petitioner under the "Freedom Fighters Scheme, 1972" renamed as "Swatantrata Sainik Samman Pension Scheme, 1980" (hereinafter called the Scheme).

2. The husband of the petitioner, late Shri Wamanrao Ramrao Deshmukh, according to the petitioner took part in the Hyderabad Literature Struggle as a freedom fighter and was arrested under the Hyderabad defense Act u/s 33/37, 34/37 of Nizam Government, and was admitted to Nanded Jail on 30-1-1357 Fasli. It is stated in the writ petition that the husband of the petitioner suffered imprisonment, for a period of 5 months and 1 day inasmuch as he was put to Nanded Jail and was lodged therein from 30-1-1357 to 13-6-1357 Fasli and also that he remained underground activist up to 1-5-1358 Fasli and in this manner the total period comes to more than 6 months. The petitioner states that in accordance with the provisions of the Freedom Fighters Pension Scheme, 1972, the petitioner being the widow of late. Shri Wamanrao Ramrao Deshmukh is entitled to grant of such pension having fulfilled the eligibility condition of having undergone imprisonment coupled with remaining under-ground activists for a period of more than 6 months. Accordingly, the petitioner applied for grant of the said freedom fighters pension in the year 1984 and as "no response was.

received From the respondents a detailed representation Along with all the documents and copy of the earlier representation was sent once again to the respondents near about 26-8-1993 which was received by the respondent authorities on 26-8-1993. Even after receipt of the same the. respondents have not sanctioned the freedom fighters pension in favor of the petitioner and hence this writ petition.

3. The respondents have contested the present writ petition by filing a counter, affidavit, wherein it has been stated that the Jail certificate produced by the petitioner shows imprisonment for 5 months on]y and that there is no mention of the period of sentence/conviction and in that view of the matter, according to the respondents the petitioner is not entitled to claim for and/or grant of the aforesaid pension.

4. The scheme for grant, of pension to freedom fighter's and their families from central revenue is guided by the provisions of the Scheme. One of such provisions is that a person who has suffered a minimum imprisonment of 6 months in the main land Jails before independence is eligible for such pension whereas in case of women and SC/ST freedom fighters the minimum period of actual imprisonment for eligibility to such pension was reduced to 3 months. It has been further laid down therein that in case of imprisonment/ detention a certificate has to be produced from the concerned Jail authorities, District Magistrates or the State Government and in case of non availability of any such certificate a certificate from co- prisoners or from a sitting Member of Parliament or M.LA or an Ex. M. P. or MLA specifying the jail periods could also be produced. Having detailed the pleadings of the parties and also the provisions of the scheme we may now examine the merit of the claim of the petitioner for grant of such pension. The petitioner has enclosed with the petition a jail certificate issued by the Superintendent Nanded District prison which is annexed as Annexure P-3 to the petition which certifies that the husband of the petitioner was admitted in the said prison on 30-1-1357 Fasli being detained under Sections 33/37 & 34/37 of the Hyderabad defense Act and was released on bail on 31-6-1357 Fasli. Our attention has also been drawn to a copy of the Register General Crime, Nanded District, wherein date and time of the crime has been recorded as 21st Aban 1356 Fasli. Relying on the copy of the aforesaid document annexed to the writ petition as Annexure P-3 from the Register General Crime, the learned counsel for the petitioner submits that in view of the facts and circumstances of the present case the period of detention is to be computed from 21st Aban 1356 Fasli, the date when the offence was committed as subsequent to the said date the petitioner was arrested in connection with the same offence and was in jail till subsequently he was released on bail.

5. We find sufficient force in the submission of the learned counsel appearing for the petitioner. It is apparent from the aforesaid copy of the Register General Crime that the husband of the petitioner committed the aforesaid crime for which a case under S. 33, 34 and 37 of Hyderabad defense Act was registered on 21st

Aban 1356 Fasli and the husband of the petitioner was shown as a named accused. In pursuance of the said case the husband of the petitioner was arrested and imprisoned from 30-1-1357 " to 31-6-1357 Fasli. In view of the provisions of the scheme and in view of the records placed before us we are satisfied that although the husband of the petitioner had undergone a period of sentence of 5 months and 1 day, he is entitled to get the benefit of the period w.e.f. the date when the crime was committed by him till he could be arrested and imprisoned from 30-1-1957 Fasli, as he remained under-ground for the said period anticipating his arrest which statement stands unrebutted by the respondents. In our opinion, Therefore, the petitioner fulfills the criteria, for grant of freedom fighters pension as laid down under the provisions of the scheme.

6. In the result, this writ petition is allowed. The respondents are directed to grant freedom fighters pension to the petitioner w.e.f. the date of her application in terms of the judgment and order passed by the Supreme Court in Mukund Lal Bhandari and others Vs. Union of India and others, . However, in the facts and circumstances of the case, we make no order as to costs.

7. Petition allowed.