
(2000) 05 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12160 of 1997

Hukam Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 17-05-2000

Acts Referred:

Citation : (2000) 4 RCR(Civil) 195

Hon'ble Judges : V.K.Jhanji, J

Judgement

V.K. Jhanji, J.—Vide order dated 27.11.1989, petitioner was granted provisional pension at the rate of Rs. 750/ per month from 16.11.1989 under the Swatantrata Sainik Samman Pension Scheme, 1980. In the said order, it was mentioned that the pension granted is for the life of the petitioner and is in addition to the pension, if any sanctioned by the State Government.

2. In this petition, the only grievance of the petitioner is that pension has been granted to him with effect from the date of the order and not from the date of application. It is contended that petitioner had submitted an application on 24.6.1981 which was received by the State Government on 21.7.1981 and his case was duly recommended to the Union of India but pension has been granted with effect from 16.11.1981. Counsel for the petitioner has cited judgment of the Supreme Court in Mukund Lal Bhandari and others v. Union of India and others, AIR 1993 SC 2127, to contend that benefit of pension is to flow from the date of application and not from the date of order. The judgment cited by the counsel has no application to the facts of the present case. In the said case, their Lordships of the Supreme Court directed that pension be paid to the applicants therein from the date of receipt of applications because they had produced the required documentary proof in support of their claim. However, in this case, Union of India in its written statement has stated that because of the shortcomings found in the co prisoners' certificates submitted by the petitioner in support of his claim, benefit of doubt was given and freedom fighter's pension was sanctioned in favour of the petitioner with effect from 16.11.1989, as

conveyed to him vide letter dated 27.11.1989. According to the Union of India, petitioner has been granted pension prospectively in accordance with the policy guidelines. The policy interalia provided that in case benefit of doubt is given to an applicant in respect of his claim for pension, the pension may be granted prospectively. In Union of India v. M.R. Chelliah Thevar (Civil Appeal No. 7762 of 1996) decided on 30.4.1996, petitioners therein could not clearly establish that they were freedom fighters but giving them benefit of doubt, the pension was restricted from the date of order. In that regard, reliance was placed on decision in Union of India v. Ganesh Chandra Dolai and others rendered on 24.4.1995. In the present case too, pension has been granted to the petitioner by giving him benefit of doubt and therefore, his case is squarely covered by the judgment in M.R. Chelliah Thevar's (supra). Accordingly, the petitioner is not entitled to the relief sought for in this petition.

Consequently, the writ petition being without any merit shall stand dismissed. No costs.