

(2022) 09 TEL CK 0081
In the Telangana High Court
Case No : Writ Petition No. 34128 Of 2014

Iduru Ayilamma

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 27-09-2022

Acts Referred:

Citation : (2022) 09 TEL CK 0081

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : A K Jayaprakash Rao, N Rajeshwar Rao

Final Decision : Dismissed

Judgement

1. Heard Mr. A.K. Jayaprakash Rao, learned counsel for the petitioner and Mrs. B. Kavitha Yadav, learned Standing Counsel for Central Government appearing on behalf of respondent No.1 and learned Government Pleader for Revenue appearing on behalf of respondent No.2.

2. This Writ Petition is filed to declare the order dated 26.08.2014 passed by respondent No.1 refusing to consider the case of petitioner's late husband for payment of Swatantrata Sainik Samman Pension as illegal and to set aside the same by declaring that she is entitled for the said pension.

3. Mr. A. K. Jayaprakash Rao, learned counsel for the petitioner, would submit that the respondents have rejected the application of the petitioner for grant of pension to her, wife of freedom fighter, late Iduuru Iddaiah. According to him, the husband of the petitioner participated in the freedom struggle against Nizams Hyderabad and remained underground for more than six (06) months up to September, 1948. He had also submitted Camp In-charge Certificate issued by Kodati Narayana Rao and Nookala Raghava Reddy through an affidavit. Her husband had also filed a writ petition vide W.P. No.10010 of 1989 along with other freedom fighters, and this Court had disposed of the said writ petition directing the freedom fighters to submit copies of applications together with

support material, and even then, the same was not considered by the respondents. He died on 16.02.2006. Vide order dated 22.01.2004, respondent No.1 had informed the husband of the petitioner that he is not eligible for grant of pension under Swatantrata Sainik Samman Pension (SSSP) Scheme, 1980 stating that in his application, his age was shown as 65 years in the year 1981 and as on the date of the said order, the age of the husband of the petitioner would be 87 years. His age to be 65 years in 1995 on the basis of Identity Card, and according to it, his age would be 74 years. Therefore, there is difference of 14 years between the age mentioned in the application and re-verification report of respondent No.2. Thus, the husband of the petitioner is not 15 years during the said Freedom Movement i.e., 1947-48.

i) Learned counsel would further submit that the age of the husband of the petitioner is 65 years as per the Electoral Rolls published on 01.01.1995 at serial No.709, whereas as per the electoral rolls published on 01.01.1983 at serial No.603, his age is 58 years. In the Electoral Rolls published on 01.01.1986 at serial No.1091, his age is mentioned as 60 years. Without considering the same, pension was rejected to the husband of the petitioner. In similar circumstances, respondent No.1 had granted pension to one Paka Narsaiah, Co-freedom fighter. Therefore, the action of the respondents in not sanctioning pension to the husband of the petitioner and thereafter to the petitioner is illegal.

4. On the other hand, respondent No.1 had filed counter stating that the husband of the petitioner and the petitioner herein are not entitled for pension since the claim of the husband of the petitioner cannot be treated as having been recommended by the erstwhile HSSC as recommendations slip available in the record contains no details about the husband of the petitioner except file No.112/916/83-FF(HC)-A. He has not submitted the required documents. Therefore, his case was not considered.

5. Perusal of the record would reveal that the husband of the petitioner had filed a writ petition vide W.P. No.18625 of 2013 challenging the rejection order issued by respondent No.1 rejecting to sanction pension to the husband of the petitioner. Vide order, dated 24.07.2013, the said writ petition was disposed of.

6. Feeling aggrieved by the same, respondent No.1 had filed writ appeal vide W.A. No.1505 of 2013 and the same was disposed of vide order dated 10.10.2013 with the following order:

"In these circumstances, we consider it appropriate to slightly modify the order of the learned Single Judge to the effect that the second respondent has to consider the application in recommending the claim of the petitioner with regard to the Freedom Fighter's Pension subject to law of limitation and her eligibility and subject to availability of the pension papers with the second respondent. If application is not pending, liberty is given to the petitioner to file fresh application and the second respondent has to take appropriate decision thereon in accordance with law."

7. In compliance of the aforesaid order, respondent No.1 vide letter dated 05.11.2013, requested respondent No.2 to forward re-verification report along with necessary documents/certificates in respect of the petitioner. Respondent No.2 has not forwarded the said re-verification report to respondent No.1. However, in the letter itself, respondent No.2 has mentioned that the petitioner herein has not submitted any documents. Therefore, the claim of the husband of the petitioner cannot be treated as having been recommended by the erstwhile HSSC as the recommendation slip available in the record contains no details about him except the file No.112/916/83.

8. Respondent No.2 has also not verified the claim through the checklist as submitted to them, nor has made any recommendation about the genuineness of the claim. As per the scheme, verification and recommendation of the State Government are mandatory for grant of pension under the Scheme. The State Government had forwarded the Photostat copy of Personal Knowledge Certificate (PKC) purportedly issued by Nookal Raghava Reddy, who has been declared ineligible for issue of such certificate as he had been found to have issued false certificate to bogus claimants and, hence, it is not acceptable. Moreover, the PIC does not contain Cases and Authority necessitating the husband of the petitioner going underground in the border camp as required under the guidelines issued by the Government of India vide letter dated 10.09.2009. The copy of the Camp In-Charge Certificate was submitted, however, Camp In-charge is no longer alive and co-freedom fighter certificates from two certifiers as required under the above guidelines have not been produced. No other document has been submitted as per the guidelines as stated by respondent No.2. Therefore, the petitioner herein is not entitled for freedom fighter family pension.

9. With regard to the proceedings issued in respect of Mr. Paka Narsaiah, Co-freedom fighter, there is no date. Though the petitioner herein has produced copy of the same, there is no date. The certificate issued by Nookala Raghava reddy is not valid since he has been declared ineligible to issue such certificates. The petitioner has to necessarily submit the aforesaid primary and secondary evidence in terms of the aforesaid SSSP Scheme, 1980. The name of the husband of the petitioner is not found in 45 cases mentioned in the proceedings, dated 30.07.2003 submitted by respondent No.2 to respondent No.1. Though the petitioner herein is claiming that Mr. Kodati Narayana Rao has also issued certificate, but copy of the same is not filed.

10. For the purpose of grant of Samman Pension under the Scheme, 1980, a freedom fighter, who had suffered a minimum imprisonment of six months in the mainland jails before Independence. The minimum period of actual imprisonment for eligibility of pension has been reduced to three months, in case of women and SC/ST freedom fighters from 01.08.1980. Therefore, the persons who are claiming pension under the aforesaid Scheme, 1980, have to necessarily submit the aforesaid documents in terms of the aforesaid Scheme. Despite giving opportunity, the petitioner herein has not submitted the said documents.

Respondent No.2 has not submitted any re-verification report. Even in the letter submitted by respondent No.2, it is specifically mentioned that the petitioner herein has not submitted any document. The petitioner herein is not entitled for any relief. The impugned order is dated 26.08.2014 issued by respondent No.1 rejecting the claim of the petition is a reasoned order and it does not warrant any interference by this Court. Viewed from any angle, the writ petition is devoid of merits and the same is liable to be dismissed.

11. The present Writ Petition is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the writ petition shall stand closed.