
(2006) 01 PAT CK 0056
In the Patna High Court
Case No : C.W.J.C. No. 2344 of 2003

Jai Kishun Singh	Vs	APPELLANT
Union of India (UOI) and Others		RESPONDENT

Date of Decision : 03-01-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 1 BLJR 187 : (2006) 1 PLJR 583

Hon'ble Judges : Chandramauli Kumar Prasad, J

Bench : Single Bench

Advocate : Bamdeo Pandey, Jitendra Pandey and Prithvi Nath Mishra, V.B. Ambastha, JC to GPI, for the Appellant; Sanjay Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kumar Prasad, J.—Freedom Fighters are persons who had suffered miseries to free this Country from the foreign-shackles. Many of them have lost their lives, many were injured and large number of such persons languished in jails for various periods. A grateful Nation, after Independence, decided to honour them and thus Freedom Fighters Pension Scheme, hereinafter referred to as the "Scheme" was launched. Many came to be benefited under the scheme on misrepresentation and fraud. This had naturally pained such freedom fighters who had sacrificed everything, the family, the property and the freedom; for the freedom of the country. The only tribute which a grateful Nation can give to such freedom fighters is to weed out such persons who are bearing the chola of freedom fighters and getting benefits under the Scheme. Petitioner is one of such freedom fighters who has got the freedom fighter pension.

Petitioner had filed the present writ application for quashing the communication dated 31.5.2002 (Annexure 1), whereby the disbursement of pension under the Scheme was suspended. However, during the pendency of the application the freedom fighter pension granted to him has been canceled by communication dated 19th of May, 2004 (Annexure 9) and by way of amendment the prayer of

the petitioner is to quash the said order. According to the petitioner, he took active part in the freedom movement in the year 1942 and when the police started arresting the freedom fighters, he went underground and while underground organised and gave direction to the freedom movement. According to him, he remained underground from 15.8.1942 to 14.8.1943, exactly for one year. Petitioner claimed grant of freedom fighters pension and the State Government by its communication dated 30th of November, 1992 (Annexure 2) recommended to the Central Government for grant of freedom fighter pension to the petitioner with effect from 1st of August, 1980 and accordingly request was made to issue necessary order. While forwarding the case of the petitioner, the State Government referred to the certificate granted by one Raghunath Dom, a freedom fighter, relied on by the petitioner. The claim of the petitioner, for grant of freedom fighter pension was examined and ultimately by letter dated 18th of June, 1995 his claim was rejected. It seems that thereafter petitioner again laid claim for grant of pension and the State Government forwarded the same to the Central Government. Ultimately the Central Government by its letter dated 26.12.1997 sanctioned freedom fighter pension to the petitioner with effect from 31.3.1982 and the petitioner started withdrawing the amount of pension.

2. Everything went his way till then, but to the misfortune of the petitioner a news item was published in the daily newspaper "Hindustan Times" in its issue dated 15th of August, 2001 alleging that many undeserving and ineligible persons are receiving freedom fighters pension. This Court suo-motu took cognizance of the news item and issued direction to hold inquiry in regard to such persons, who were granted pension in the financial year 1997-1998. In view of the order of this Court the District Magistrate, Saran held an inquiry and made recommendation. The name of the petitioner finds place in the list of such persons, whose claims have been found to be fictitious. By the order of this Court recommendations made in the case of the petitioner as also other such persons were forwarded to the Ministry of Home Affairs, Government of India for necessary action. The Government of India by its letter dated 7.3.2002 suspended the grant of pension to the petitioner and the Additional Collector by memo dated 31.5.2002 (Annexure 2) forwarded the same to the Treasury Officer,

3. A show cause notice dated 7.3.2002 was issued to the petitioner. In response thereto the petitioner submitted his show cause and the Government of India by letter dated 9th of April, 2002 sent the show cause filed by the petitioner for examination of the State Government. Ultimately the claim of the petitioner was examined and on analysis of the material it was found that the claim made by the petitioner of being a freedom fighter is fictitious. While coming to the aforesaid conclusion the statements of such freedom fighters, in respect of whom there was no dispute, were taken into consideration. According to the statement of one of the freedom fighters, in the year 1942 the age of the petitioner was 7 to 8 years. Petitioner claimed that he participated in the freedom movement at Maharajganj and lack of knowledge about the incident, which had taken place there on 16.8.1942, in which three freedom fighters died at the spot and three

later on, was also considered for arriving at the conclusion that the claim made by the petitioner is false. According to the petitioner, the freedom fighters did not agitate at the Railway Station on 16th and 17th of August, 1942. This was found to be false on the basis of the authentic record, which show that the Railway Station was damaged. Lack of knowledge of other events of the freedom movement in which he claims to have participated have also been considered to discredit his claim. Petitioner at one point of time had claimed to have gone underground from 15th August, 1942 but at the same time he claimed that he took active part in the freedom movement at Maharajganj on 16.8.1942, This was also taken into consideration to hold that the claim made by the petitioner is fictitious.

4. Mr. Bamdeo Pandey, appearing on behalf of the petitioner attempted to assail the finding recorded by the authority that the petitioner is not freedom fighter. It is well settled that this Court while exercising its power under Article 226 of the Constitution of India does not interfere with the finding recorded by the subordinate authority unless it is shown that the finding recorded is perverse, meaning thereby that the finding has been recorded on consideration of irrelevant material or without considering the relevant material and a person duly instructed in law shall not come to the said finding. Here in the present case the authority has taken into account his age in the year 1942, his lack of knowledge about the events in which he allegedly participated and going underground from an earlier date and claiming to have participated in the freedom movement later on, to come to the conclusion that the claim made by the petitioner is fictitious. In the facts of the present case the only view possible has been taken by the authority which does not call for interference by this Court in the present application.

5. Mr. Pandey, submits that it shall be too harsh to ask the petitioner to refund the amount which he has got pension as freedom fighter. He emphasises that justice demands that the pension paid to him be not re"covered. Petitioner has got the freedom fighter pension on fraud and misrepresentation. Fraud and justice never dwell together. In my opinion, such direction would encourage person to claim pension and would amount to giving premium on fraud misrepresentation and corruption. This Court would certainly not be a party to that. In fact to uphold the majesty of law and to pay tribute to the freedom fighters, I will expect the authority to recover the amount sooner the better.

6. In the result, I do not find any merit in the application and it is dismissed with cost to be paid by the petitioner, which I quantify at Rs. 5,000/- (five thousand), to the Union of India.