
(2014) 10 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16341 of 1997 (O and M)

Jai Singh Walia

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-10-2014

Acts Referred:

Constitution of India, 1950 — Article 226 227

Citation : (2015) 178 PLR 241

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Bindu Goel, Advocate for the Appellant; Rajiv Sharma, Advocate for the Respondent;

Final Decision : Allowed

Judgement

Ritu Bahri, J.

1. The petitioner has approached this Court by way of instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus for quashing order dated 06.10.1997 (P-10) passed by respondent No. 1 and order dated 14.11.1996 passed by respondent No. 2 (P-13) and further prayer is of grant of Swantantarta Sainik Saman Pension (for short "the pension") to the petitioner w.e.f. 19.11.1981 i.e. the date of receipt of his original application in the office of respondent No. 2. The petitioner made an application on 15.10.1981 with regard to the jail sufferings. However, the petitioner had to submit his documents in support of his sufferings during the freedom struggle. He gave co-prisoner certificates of Sh. Banal Singh S/o. Chattar Singh and Sh. Faqir Singh S/o. Atma Singh on 14.02.1992. According to these certificates, the petitioner have been imprisoned in Central Jail, Lahore from 22.02.1941 to 31.08.1942 on account of his participation in the Individual Satyagrah during freedom struggle. These certificates along with petitioner's application dated 15.10.1981 was sent to D.C. Patiala on 27.03.1992 for verification. The final report and recommendation was received on 18.01.1993.

Thereafter, the case of the petitioner was recommended to Govt. of India on 01.03.1993 for grant of the pension under the Central Govt. Scheme (R-1). In this Annexure R-1, it was explained that earlier case of the petitioner was not sent as he had produced the co-prisoner certificates on 14.02.1992. Thus, there is no delay on the part of Government of Punjab for recommending the case to Government of India. Accordingly, the petitioner was sanctioned pension from 30.05.1988 (R-III) while Government of India has sanctioned pension to me petitioner w.e.f. 04.03.1993. At this stage, reference can be made to a judgment delivered by the Hon"ble Supreme Court in Mukund Lal Bhandari and others Vs. Union of India and others, , wherein the petitioners had participated in the Arya Smaj Movement in the late 1930s in the erstwhile Nizam State of Hyderabad. Pursuant to the amendments made in the Scheme by the Government circular/ letter dated September 30, 1985, they became entitled to the benefit of the pension. The Scheme was not being disputed by the Union of India. However, the claim was being restricted from the date, when after giving application, they have produced the proofs in support of the claim that they had participated in the movement and were sentenced for imprisonment for six months or more. The contention of Union of India was accepted partially by the Hon"ble Supreme Court. In para Nos. 8 and 11 of the aforesaid judgment, it as observed as under:--

"8. Coming now to the last contention advanced on behalf of the Government, viz., that the benefit of the Scheme should be extended only from the date the claimant produces the required proof of his eligibility to the pension, we are of the view that this contention can be accepted only partially. There have been cases, as in the present case where some of the claimants had made their applications but either without the necessary documentary proof or with insufficient proof. It is unreasonable to expect that the freedom fighters and their dependents, would be readily in possession of the required documents. In the very nature of things, such documents have to be secured either from the jail records or from persons who have been named in the Scheme to certify the eligibility. Thus the claimants have to rely upon third parties. The records are also quite old. They are bound to take their own time to be available. It is, therefore, unrealistic to expect that the claimants would be in a position to produce documents within a fixed time limit, What is necessary in matters of such claims is to ascertain the factum of the eligibility. The point of time when it is ascertained, is unimportant. The prescription of a rigid time-limit for the proof of the entitlement in the very nature of things is demeaning, to the object of the Scheme. We are, therefore, of the view that neither the date of the application nor the date on which the required proof is furnished should make any difference to the entitlement of the benefit under the Scheme. Hence, Once the application is made, even if it is unaccompanied by the requisite eligibility date, the date of 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.

11. We decline to go into the facts of the individual petitioners in this petition and

direct the respondents as follows:

[a] The respondents should accept the applications of the petitioners irrespective of the date on which they are made. The applications received hereafter should also be entertained without raising the plea that they are beyond the prescribed date.

[b] The respondents should scrutinise every application and the evidence produced in support of the claim and dispose it of as expeditiously as possible and in any case within three months of the receipt of the application, and the documents proof keeping in view the laudable and sacrosanct object of the Scheme, [c] The pension should be paid to the applicant from the date on which the original application is received whether the application is filed with or without the requisite evidence. The sanction of the pension would, however, be subject to the requisite proof in support of the claim."

2. Applying the ratio of the aforesaid judgment to the facts of the present case, it is apparent that the case of the petitioner was recommended to the Government of India on 01.03.1993 as per Annexure R-1. In this letter, it has been admitted that his application was received by the Government of Punjab, Department of General Administration on 19.11.1981. The petitioner produced his co-prisoner certificate on 14.02.1992 and thereafter, his case was recommended on 01.03.1993. Hence, as per the detailed reasoning given by the Hon"ble Supreme Court in Mukund Lal Bhandari's case (supra), the object of the Scheme was not to give compensation to the freedom fighters, but the Scheme was made with an object of giving some assistance to the freedom fighters, who had given their lives and time for struggle in getting the freedom. The Hon"ble Supreme Court has finally held that it would be the date of application, which would be the material date for granting pension and not the date when requisite proofs or documents had been given to substantiate his claim.

3. The respondents, in their written statement have stated that as per letter of recommendation dated 01.03.1993 (Annexure R-1), the application of the petitioner was received on 19.11.1981. Hence, the petitioner was covered by the Pension Scheme. Pursuant to the application dated 15.10.1981, the petitioner has been granted pension w.e.f. 30.05.1988 as is evident from Annexure R-III. The Union of India released his pension w.e.f. 04.03.1993. Accordingly, while following the principles, laid down by the Hon"ble Supreme Court in Mukund Lal Bhandari's case (supra), the petitioner is held entitled to arrears of pension with effect from 15.10.1981 i.e. date of application, till date the pension was released to him by the Union of India i.e. 04.03.1993 as per letter (Annexure R-IV). Necessary arrears be released in favour of the petitioner within a period of four weeks from the date of receipt of certified copy of this order and compliance report thereof, be sent to this "Court within four weeks".

Allowed accordingly.