
(2015) 01 MAN CK 0002
In the Manipur High Court
Case No : Writ Petition (C) No. 195 of 2003

K. Peter

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 27-01-2015

Acts Referred:

Citation : (2015) 2 GLT 67

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J.; Kh. Nobin Singh, J.

Bench : Division Bench

Advocate : Y.Z. Shimray, for the Appellant; R.S. Reisang, Sr. Govt. Advocate and S. Rupachandra, ASG, Advocates for the Respondent

Final Decision : Allowed

Judgement

Kh. Nobin Singh, J.—The present writ petition has been filed by the petitioner praying for payment of adequate compensation of Rs. 5,00,000/- (Rupees five lakhs) to him.

2. The case of the petitioner is that on 09-05-1994 at about 04.30 pm, the suspected NSCN guerrillas gunned down two Assam Rifles Officers namely Major Sunil Bakshi, the post Commander and Captain Labh Singh, Asst. Commander of the Ukhrul Town Post. One Lance Naik N.P. Singh also sustained injuries in the incident. The said incident took place a few yards from the LMP Post of the 20 Assam Rifles located in the heart of Ukhrul Town while the Post Commander was showing the layout of the Ukhrul Town to the Asst. Commander who would look after the area in his absence. Soon after the said two officers of the Assam Rifles being gunned down by the suspected NSCN Guerrillas, the Assam Rifles turned the Ukhrul Town into a war field by their indiscriminate firing with sophisticated weapons including LMG towards the public, houses, building etc. from different directions. Many bombs were landed/dropped on the roof of buildings including Church.

By the said indiscriminate firing and bombardment which took about two hours,

one person namely Pangom Shimrah died in the explosion and two others namely Mrs. Mathotla and Master Sochihan aged about 12 years, son of the petitioner were shot dead at Tailor shop near about the Assam Rifle Post and Viewland respectively while the son of the petitioner was on the way to fetch water. While the said firing and bombardment were going on, some Assam Rifle personnel went around the nearby bazaar beating and torturing the public at large, some of them were taken into custody including four girls. After the firing and bombing were over, the Assam Rifles personnel came out of their camp and started search and combing operation and went on rampaging the Ukhrul Town with their face half-covered to avoid identification. Many people including Dr. Alingsung, H. Achung, Police Constable, T. Ashang, Development Officer, United Insurance Company who were also beaten, went to the Police Station and lodged their complaints. The said incident was condemned by many social organizations including PUCL which urged the NHRC for conducting spot enquiry and to take actions accordingly.

3. By filing an affidavit-in-opposition, the respondents No. 3 and 4 contested the writ petition and denied the allegations made by the petitioner. The said respondents specifically denied that there was any indiscriminate firing and bombardment at Ukhrul Town and that the Assam Rifle personnel tortured and harassed the public. According to the said respondents, on the day of incident a patrol Party of 20 Assam Rifles with a strength of two officers and 15 jawans while carrying out patrolling in Wino Bazar, Ukhrul was fired upon by a group of underground from LM Chicken shop, Oriental Tailoring Sales and Homeopathic Dispensary killing the said two officers on the spot. Two NCOs, Lance Naik N.P. Singh and Lance Naik K.C. Ghosh sustained injuries. The Jawans returned fire in self-defence, on being ambushed by the undergrounds, with utmost restraint and humanitarian consideration for the civilian in that area.

4. By order dated 18-11-2005 passed by this court, the learned Addl. District and Session Judge, Manipur was directed to cause an enquiry relating to the cause of the death of the petitioner's son and also to find out the identity of the persons who were responsible for the same. The learned Addl. District and Session Judge could not complete the enquiry despite number of extension being granted by this court and when the post of the Addl. District and Session Judge remained vacant, on 15-05-2009 the District and Sessions Judge was directed to make necessary enquiry and submit the report which could be done by the District and Sessions Judge only 01-12-2011. An objection, by way of an affidavit, to the said enquiry report was filed on behalf of the respondents on 22-03-2012.

5. The learned counsel for the petitioner submitted that after the two officers of the Assam Rifles being gunned down, the Assam Rifles personnel started indiscriminate firing and bombardment resulting in the death of three persons including the petitioner's son and while doing so, the Assam Rifle personnel had exceeded its power and committed criminal atrocities against the innocent people. Though the Assam Rifle personnel was fully responsible for the said

incident, the agony and loss of the petitioner's son, the genuine complaints and demands put forward by the petitioner for redressal had not been able to evoke any response from the respondents and therefore the present petition was being filed. The counsel for the petitioner also highlighted the life situation of the citizens of the Ukhurul Town narrating the similar incidents in the past. Relying upon the enquiry report, the counsel for the petitioner further submitted that the petitioner was entitled to adequate compensation of Rs. 5 lakhs. The respondents and particular respondents No. 3 and 4 took a stand of complete denial and their counsel submitted that since there was no categorical finding in the enquiry report that the Assam Rifle personnel were responsible for the killing of the petitioner's son, the petitioner was not entitled to compensation. The Assam Rifle personnel resorted to firing in retaliation and in exercise of their self-defence.

6. We have heard the learned counsels for the parties and have perused the enquiry report and we find that there is force in the submission of the learned counsel for the petitioner who has confined his argument only in respect of payment of compensation. In the enquiry report, the District and sessions Judge gave a finding that though there was no evidence to prove as to who shot dead the petitioner's son, there was circumstantial evidence to suggest that the Assam Rifle personnel resorted to indiscriminate firing resulting in the death of the petitioner's son. The learned District Judge had further found that there was no evidence of cross firing between the Assam Rifle personnel and the undergrounds after two officers of the Assam Rifles being gunned down. While appreciating the evidence, the learned District and Sessions Judge found the evidence of PW 3 who is none other than the brother of the deceased and had gone with the deceased to fetch water at the time incident, to be corroborated by the evidence of PW 1. PW 4 is the doctor who conducted autopsy over the death body of the petitioner's son deposed that the death was due to shock and hemorrhage following the projectile injuries and the range of firing might be from a distance of about 30 to 40 ft. On behalf of the respondents, only one witness was examined as RW 1 who in the cross examination admitted as per the report that there occurred no further exchange of firings between the NSCN cadres and the Assam Rifles personnel after the two officers being shot down by the NSCN cadres. There is no reason why the enquiry report be not accepted.

7. Having heard the learned counsels for the parties and in view of the aforesaid circumstances, we are of the view that since the petitioner has established that his son was killed in the firing by the Assam Rifle personnel, his prayer for compensation can be allowed. Then, the question arises as to how much compensation be awarded. The petitioner's son was hardly 12 years old at the time of incident and only a school going. We are also of the view that the end of justice will be met if a sum of Rs. 5 lakhs is directed to be given as compensation keeping in view the date of incident and the time spent in the disposal of the present petition. Accordingly, we allow the present writ petition and direct the respondents No. 1, 3 and 4 to pay a sum of Rs. 5,00,000/- (Rupees five lakhs)

as compensation to the petitioner within a period three months from the date of receipt of a copy of the judgment and order.