
(2001) 04 AHC CK 0070
In the Allahabad High Court
Case No : C.M.W.P. No. 1026 of 1993

Prabhu Nath Misra

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 10-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 AWC 1306 : (2001) AWC 1306 : (2001) 2 UPLBEC 1346

Hon'ble Judges : Lakshmi Bihari, J;D.S. Sinha, J

Bench : Division Bench

Advocate : Satyendra, for the Appellant; A.K. Sinha, Addl. S.C. and Vinay Malviya, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Lakshmi Bihari, J.—Heard Sri Om Prakash Ojha, holding brief of Shri Salycndra, the learned counsel of the petitioner. Shri A. K. Sinha, the learned Additional Standing Counsel of the Central Government, representing the respondent Nos. 1, 2 and 3, and Shri Vinay Malviya, the learned standing counsel of the State of U. P., representing the respondent Nos. 4 and 5.

2. The prayer of the petitioner, in this petition under Article 226 of the Constitution of India, is to issue a writ, order or direction in the nature of mandamus, directing the respondent Nos. 1, 2 and 3 to sanction the pension to the petitioner under Liberalised Pension Rules, 1980, forthwith. The petitioner has further prayed for issuing a writ, order or direction in the nature of mandamus commanding the respondents to dispose of the applications of the petitioner dated 13.8.1986, 11.9.1991, 20.3.1992 and 15.11.1992.

3. According to the averments made in the writ petition, the application dated 21.7.1981, filed by the petitioner along with his affidavit and the certificates, issued by prominent freedom-fighters, under the Freedom Fighters Pension Scheme, 1972 for the grant of pension to him as a freedom fighter, was rejected

by the Government of India vide letter dated 25.5.1983, a copy of which is Annexure-3 to the writ petition. A perusal of the letter dated 25.5.1983 Annexure-3 shows that the application of the petitioner was rejected mainly on two grounds, namely, that the case of the petitioner could not be verified from the official records, and that the State Government has not recommended his case for pension. It is relevant to point out here that the petitioner has not challenged the said order rejecting his application dated 21.7.1981.

4. According to the petition, the petitioner moved another application on 21.6.1985 annexing therewith certificates, issued by renowned freedom-fighters of Ballia district under the Liberalised Pension Scheme, 1980, but the respondents have not taken any decision on the said application dated 21.6.1985. Thereafter, the petitioner moved various representations, copies whereof are Annexures "8", "9", "10" and "11" to the writ petition. But, no action has been taken by the respondents. In this connection, firstly, it may be pointed out that the petitioner has not filed the copy of the said application dated 21.6.1985 and, therefore, it could not be ascertained as to on what grounds the application was moved. Secondly, according to the paragraph 8 of the counter-affidavit filed on behalf of respondent Nos. 1 to 3, the claim of the petitioner for underground sufferings was got investigated through the Deputy Commissioner, Ballia, who reported that sufferings as claimed by the petitioner, had not been corroborated on the basis of the available records. It is further mentioned in the said paragraph of the counter-affidavit that the representations of the petitioner came up for consideration, but it was not found possible to alter the decision already arrived at in the matter. There is no reason to disbelieve the averments made in the counter-affidavit as the petitioner has not filed any rejoinder-affidavit.

5. In view of the discussions made above, the petition is devoid of merits and is, accordingly, dismissed with costs.