
(1999) 03 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13684 of 1994

Sher Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 05-03-1999

Acts Referred:

Citation : (1999) 121 PLR 813 : (1999) 2 RCR(Civil) 613

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : G.S. Savra and H.S. Giani, for the Appellant; N.D.S. Mann, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—The petitions filed this writ petition for issuance of a writ of mandamus directing the respondents to grant them freedom Fighters Pension under the "SWATANTRA SAINIK SAMMAN PENSION SCHEME 1982" (hereinafter referred to as the Scheme). According to the petitioners, they participated in the freedom struggle and were imprisoned in Central Jail, Lahore from 20.10.42 to August/September, 1943. In proof of their participation and detention in jail, the petitioners produced co-prisoners certificate. The Government of Punjab recommended the case of the petitioners to the Union of India for the grant of pension but the Government of India relying on the report of the West Punjab Committee, negatived the relief of granting the freedom fighters pension to the petitioners. That necessitated the petitioners to approach this Court.

2. Annexure P-4 is a letter from the Government of Punjab to Union of India wherein it has been clearly stated that Sher Sjngh who is petitioner No. 1 suffered imprisonment from 20.10.42 to 20.8.43 in Central Jail, Lahore, on account of his participation in Quit India Movement. Annexure P-5 is the letter from the Government of Punjab addressed to the Union of India stating that Karnail Singh, petitioner No. 2 suffered imprisonment from 20.10.42 to 25.9.43 in Central Jail, Lahore, on account of his participation in Quit India Movement.

These recommendations have been made by the Government of Punjab on the basis of the documents which are relevant for consideration. In the written statement, the Union of India admitted that the case of the petitioners for the grant of freedom fighters pension has been recommended by the Government of Punjab but it took the stand that the West Punjab Committee has not recommended their case for the grant of freedom fighters pension. Annexures R-1 and R-2 filed along with the written statement dated 4.3.91 and 18.2.91 respectively show that the cases of the petitioners have been placed before the West Punjab Committee set up by the Government of India and that the said committee has not recommended their cases for the grant of pension under the Scheme and, therefore, the same has been rejected. The Scheme was framed on 31.1.83. It is Annexure P-2. Under the said Scheme formulated for the grant of pension to the freedom fighters, the requirement which has to be fulfilled is that the freedom fighters should have undergone imprisonment for not less than one year in connection with the freedom struggle. Nothing has been placed before me to show that the pension of freedom fighters struggle is dependent upon the recommendations of the West Punjab committee set up by the Government of India. Nevertheless I called for the material before the Punjab Committee for not recommending the cases of the petitioners for the grant of freedom fighters pension. Learned counsel for the Union of India placed before me the report of the West Punjab Committee which reads as follows:-

"The Punjab Committee considered the case of the above persons at its meeting held on 24th January, 1991, and was NOT satisfied about the minimum suffering of the following persons and did NOT recommend their cases for grant of Swatantarata Sainik Samman Pension :

1. Sher Singh s/o Ludhiana Bhola Singh

127/L/2094/01/FF(Pb.) (File No.)

....."

"The Punjab Committee considered the cases of above persons at its meeting held on 22nd January, 1991, and was NOT satisfied about the minimum suffering of the following persons and did NOT recommend their cases for grant of Swatantarta Sainik Samman Pension:-

2. Karnail Singh s/o Patiala (Punjab) Deva Singh

127/P/3723/89-FFNZ (File No.)

....."

3. No material has been referred to in this report of the Committee for denying the benefit of freedom fighters pension to the petitioners; Learned counsel for the State is also not in a position to place any material before me to show that the petitioners have not participated in the freedom struggle. The Government of Punjab after considering the relevant documents as envisaged under the Scheme

recommended the cases of the petitioners for the grant of freedom fighters pension. Therefore, there is no factual basis for rejecting the claim of the petitioners for the grant of the said pension under the Scheme. Therefore, in my view the orders of the UOI Annexures R-1 and R-2 dated 4.3.91 and 18.2.91 are liable to be quashed as they are based on no material. I accordingly quash both the orders.

4. In view of what has been stated above, I allow this writ petition and direct the respondents to consider the cases of the petitioners for the grant of freedom fighters pension under the Scheme 1982/1983 on the basis of the recommendations of the Government of Punjab within 3 months positively from today or from the date of the receipt of the order or communication of the order by the petitioners to the concerned authority,