

(2012) 11 JH CK 0007
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2855 of 2008

Smt. Gayatri Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 26-11-2012

Acts Referred:

Citation : (2013) 1 JLJR 563

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Suraj Kumar, for the Appellant; S. Shrivastava, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner has sought quashing of the memo No. 692 dated 14.11.2006 issued by the Deputy Commissioner, Jamtara by which the claim of the petitioner for getting Freedom Fighter Pension has been denied. Petitioner has further prayed for a direction upon the respondents to pay the freedom fighter pension, by claiming herself to be the wife of late Teni Lal Tamoli, freedom fighter.

2. As per the petitioner, late Teni Lal Tamoli died in the year 1968 and he remained in custody in Central Jail, Bhagalpur since 26.2.1943 to 9.1.1944 under the Preventive Detention Act and I.P.C. The petitioner was granted family pension w.e.f. 22.9.1987 by a letter issued by the Ministry of Home Affairs, Government of India, copies of which were sent to the office of Accountant General, Bihar, Department of Home, Bihar, petitioner, Treasury Officer and Collector, Dumka (Annexure-3). The petitioner continued to receive pension till December, 2003 @ Rs. 500/-. Petitioner, thereafter, approached this Court in W.P.C. No. 888 of 2005 (Annexure-1) being aggrieved with the stoppage of her pension. The case of the petitioner was contested by the respondent-State that she was not the widow of late Teni Lal Tomali and has falsely impersonated herself as Gayatri Devi. She is, in fact, widow of late Narayan Bhagat and her actual name is Savitri Devi. This

Court, in the circumstances, disposed of the writ petition by directing the Deputy Commissioner, Jamtara to hold fresh enquiry again and pass a reasoned order in accordance with law within a stipulated time (Annexure-1). Thereafter, on inquiry the impugned order has been issued by the Deputy Commissioner, Jamtara holding that the petitioner is not entitled to family pension and the findings arrived at in the inquiry is that petitioner is Savitri Devi, W/o late Narayan Bhagat, who has impersonated as Gayatri Devi W/o of late Teni Lal Tomali and obtained freedom fighter pension which is wholly impermissible and contrary to rules.

3. Respondents have appeared and filed their counter affidavit supporting the impugned order. The report of the Circle Officer, Jamtara is annexed as Annexure-A to the counter affidavit filed on behalf of Respondent No. 7, Treasury Officer, Jamtara giving details of the finding in the inquiry report. The genealogy has also been given and it has been found that the W/o Teni Lal Tomali, freedom fighter had actually died much long before. It is further been stated on statement recorded from one Umesh Bhagat grandson of Teni Lal Tomali that his mother Savitri Devi has been availing freedom fighter pension posing as his grandmother Gayatri Devi. The daughter of late Teni Lal Tomali, Smt. Laxmi Devi aged 34 years as per the report also stated that her mother had died when she was 5 years of age and his brother and "Bhabhi", Savitri Devi have reared her, thereafter the said Savitri Devi was availing the freedom fighter pension posing as her mother, although she is wife of late Narayan Bhagat, another son of Teni Lal Tomali. Another counter affidavit has also been filed on behalf of respondent No. 6, The Sub-Divisional Officer, Jamtara, wherein also these facts have been reiterated.

4. Counsel for the petitioner has however filed a supplementary affidavit stating that, as per the voter identity card issued in the year 1995 Malti Devi is the wife of Narayan Bhagat who was aged 30 years at that point of time and as per the extracts of voter list of 2004 petitioner was aged 86 years and she is the second wife of Teni Lal Tomali, who was been getting freedom fighter pension since 1987.

5. The Accountant General has also appeared through their counsel and filed their counter affidavit stating that after time granted by this Court, Deputy Commissioner, Jamtara inquired into the matter and found that Smt. Savitri Devi W/o Narayan Bhagat was impersonating Gayatri Devi W/o Late Teni Lal Tomali, freedom fighter and trying to draw pension, which is illegal and contrary to rules, therefore, on instruction from the Government of India the family pension order has not issued by the office of answering respondent.

6. I have heard the counsel for the parties at length and have gone through the relevant materials on record. The facts narrated herein above denote that the identity of the petitioner as wife of late Teni Lal Tomali, freedom fighter is in serious dispute. The inquiry conducted pursuant to the order of this Court point out that she is the wife of late Narayan Bhagat, who is son of late Teni Lal Tomali and she was availing the freedom fighter pension posing as Gayatri Devi. The

aforesaid fact clearly denote that the claim of the petitioner is not substantiated by the undisputed facts and the findings of the inquiry report shows that she has been impersonating as Gayatri Devi W/o Teni Lal Tomali. In these disputed facts and circumstances, the petitioner cannot claim any writ or order in exercise of discretionary jurisdiction of this Court. The impugned order does not appears to suffer from any flaw. Accordingly, the writ petition is dismissed being without any merit.