

(2000) 03 KAR CK 0052
In the Karnataka High Court
Case No : Writ Appeal No. 7175 of 1999

State of Karnataka and Others

APPELLANT

Vs

Smt. Chandrabhaga Bai and Another

RESPONDENT

Date of Decision : 15-03-2000

Acts Referred:

Citation : (2000) ILR (Kar) 2522 : (2001) 2 KarLJ 136 : (2000) 3 KCCR 1963

Hon'ble Judges : Y. Bhaskar Rao, C.J;V. Gopala Gowda, J

Bench : Division Bench

Advocate : Sri G. Papi Reddy, for the Appellant; Sri I.R. Biradar and Sri G.G. Chagashetty, for the Respondent

Judgement

1. This appeal is filed assailing the order of the learned Single Judge disposing of the writ petition filed by the first respondent herein in relation to sanction of Freedom Fighters Pension.

2. The first respondent sought for sanction of Freedom Fighters Pension on the ground that her husband Ganapath Rao Rajole was a freedom fighter and he participated in Hyderabad Liberation Movement and he was arrested along with one Yeshwanth Rao Saigaonkar in Case No. 253/1/1357 Fasli. She was informed by an endorsement dated 17-10-1998 that her application has been rejected as full documents have not been submitted. Challenging the same, the first respondent filed writ petition, The learned Single Judge disposed of the writ petition with a direction to the authorities to reconsider the matter taking into consideration the certificate and documents produced by the writ petitioner. Challenging the said order the State and its authorities have filed this writ appeal on flimsy grounds.

3. The learned Single Judge rightly posed the question that whether husband of the writ petitioner participated in the freedom movement or not. The learned Single Judge took note of the FIR filed in the aforesaid case and the letter written by the Government to another freedom fighter by name Yeshwanth Rao

Saigoankar on 27-12-1985 and the certificate issued by the said person stating that writ petitioner's husband was a freedom fighter and had suffered injuries along with him. On the basis of those documents the learned Judge was of the view that the fact mentioned in the said letter of co-prisoner is sufficient material for the authorities and that they cannot insist for the certificate issued by a person nominated by the Government in 1997. It was also felt that such a person may or may not be a participant in freedom movement and it may not be possible for him to issue such a certificate. We agree with the view taken by the learned Single Judge.

4. When the Counsel for the writ petitioner brought to the notice of the learned Single Judge about sanction of pension to some other person acting on similar certificate issued by the person referred to above, the learned Single Judge ordered to reconsider the matter considering all these aspects within six months and dispose of the writ petition. Having regard to the facts of the case and the nature of the issue involved, the order passed by the learned Single Judge is reasonable and it requires no interference from our hands.

5. We may also add that the reason assigned in the endorsement at Annexure-Q impugned in the writ petition was "complete records have not been furnished". This reason is wholly untenable. The same has been issued without application of mind. The specific case of the writ petitioner was that her husband participated in the freedom movement and he was arrested along with one Yeshwant Rao Saigaonkar in Case No. 253/1/1357 Fasli and the copy of FIR is produced. In Column No. 9 thereof, the name of said Yeshwanth Rao Saigaonkar is mentioned and along with him it is stated that about 60 to 70 persons. The husband of the writ petitioner may be one among them. Had the authorities applied their mind to the case records of the same, light would have been thrown about the genuineness of the claim. Such an attempt was not made by the authorities. The endorsement impugned in the writ petition was issued without application of mind. On this score also the impugned endorsement is liable to be quashed. But the learned Single Judge without quashing the same has merely observed as "the impugned order has to be quashed".

6. Quashing the endorsement impugned in the writ petition, we dismiss the writ appeal and direct the appellants to reconsider the matter in the light of the observations made by the learned Single Judge and in this order and also taking into consideration the freedom fighters pension sanctioned to others on the basis of the certificate similar to the one produced by the writ petitioner, within a period of four weeks from today.