
(2000) 07 DEL CK 0091
In the Delhi High Court
Case No : CW. No. 5588/99

Subhadrabai

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 14-07-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 86 DLT 678 : (2000) 54 DRJ 900

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. R. K. Kapoor, for the Appellant; Mr. Viraj R. Dattar Advocate, for the Respondent

Judgement

Manmohan Sarin, J.—This is a petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondent authorities to grant Swatantrata Sainik Samman Pension to the petitioner. The petitioner, applied for grant of pension vide her application dated 21.1.1999. The case of the petitioner is that her late husband participated in the freedom movement and went through underground sufferings for a period exceeding six months and as such she is eligible for grant of the pension under the above scheme.

2. The Petitioner has produced documents recording his arrest under Rule 153 (h) and (j) of the Hyderabad Security Act. A communication from the Tehsildar to the police Sub-Inspector of Patoda records, petitioner and several other persons were arrested. The petitioner and others are stated to have escaped in the commotion which followed the firing by the Hind Union Police on the Nizam Government Police. The communication records that warrants for the offences committed u/s 153 h & j of the Hyderabad Security Act, were issued against the petitioner and others, returnable within 9 months. Further that a award of Rs. 200/- per head was kept for the arrest of the absconding persons including the petitioner.

3. Learned counsel for the petitioner urges that in view of the issuance of the

warrants of her husband's arrest returnable within 9 months, the petitioner perforce had to remain underground for the said period. As per the counter affidavit filed by the respondents they had requested the State Government to furnish their verification-cum-entitlement report as far back as on 29.10.1999, but the same had not been received. It was submitted that final decision should be taken after receipt of the report.

4. Learned counsel for the petitioner submits that the petitioner is not staking his claim for grant of pension on the basis of having undergone any imprisonment, but it is a case based on underground sufferings. Learned counsel for the petitioner urges that the Central Government has in the case of Shri Rai Chand S/O. Dagadchand Pagariya, Subash Road, Beed-431 122 (M.S.) in exactly similar circumstances granted the Swatantrata Sainik Samman Pension. Learned counsel for the petitioner refers to Annexure P.4 conveying the grant of sanction in the cited case. The annexure records that Shri Rai Chand was granted pension w.e.f. 12.8.1992. There is also a similar communication from the Tehsildar (Revenue), Patoda, District Beed to the Inspector of Police in respect of persons against whom warrants were issued u/s 153 H & J of the Hyderabad Security Act.

5. Considering the submissions and the case record, I find that the petitioner has been successful in showing through official documents that a warrant for his arrest had been issued. As warrant for petitioner's husband's arrest was returnable within a period of 9 months, the petitioner claims that her husband remained underground, for the said period. More-over, the respondents have. in similar circumstances granted to a person similarly placed pension under the scheme. It is also to be noticed that the husband of the petitioner is already a recipient of the pension scheme of the State Government as a freedom fighter.

6. Considering the aforesaid, factors, I am of the view that the petitioner has made out a case for grant of pension and relief cannot be denied to him on the ground that the verification report from the State Government is still not available. Respondents are accordingly directed by writ of mandamus to grant the pension to the petitioner as applicable under the scheme within 2 months from toady.

7. The writ petition is allowed in above terms.