

(1992) 12 SHI CK 0010
In the High Court Of Himachal Pradesh
Case No : Writ Petition No. 325 of 1991

Sukh Lal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 15-12-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1993 HP 65

Hon'ble Judges : Bhawani Singh, Acting C.J.; D.P. Sood, J

Bench : Division Bench

Advocate : Vandana Kuthiala, for the Appellant; P.A. Sharma, Central Govt. Standing Counsel, Dharam Chand Chaudhary and Chhabil Dass, General, for the Respondent

Final Decision : Allowed

Judgement

Bhawani Singh, Actg. C.J.

1. Petitioner (77) claims to be a freedom-fighter. He states that he was the subject of the Ruler of State of Bilaspur. Before independence, the Indian National Congress was fighting for the independence of the country from British Rule. Similar movements for the freedom of the country and for the merger of the princely States with the Indian Union were going on. Bilaspur was one of such princely States. This movement was being run by various Praja Mandals affiliated to "All India States Peoples Conference", central organisation of which Pandit Jawahar Lal Nehru was the Chairman.

The key object of said Praja Mandal movement in various States was to achieve independence for the country and merge the princely States with the Indian Union.

2. The petitioner was also attracted to this movement in Bilaspur. He became its active member. The Raja of Bilaspur made all efforts to suppress the movement by imprisoning and or ordering externment and internment of the political

workers who were taking part in the Praja Mandal Movement. The Raja was a despot and his breath was law for the State under his control. Most of these princely States merged with the Indian Union on or before 1-5-1948. However, the Raja of Bilaspur continued to resist the pressure and suppressed the Praja Mandal Movement and it was only on 12-10-1948 that the State of Bilaspur was merged with Himachal Pradesh.

3. The petitioner took part in this movement from 1946 to October 1948. He took part in the Satyagrah movement and was arrested and beaten by the Bilaspur Police and later under the verbal orders of the Raja of Bilaspur, he was externed from the State in October, 1946 and remained outside Bilaspur up to 1948 when the State was merged in Himachal Pradesh. Thus he remained externed for a period of about two years. He and his family suffered economically and physically due to the externment and repression by the Raja of Bilaspur. The petitioner applied for the grant of Freedom Fighter Pension under the 1980 Scheme. The application was supported by some certificates from Sh. Kahana and Khazana Singh. The papers of the petitioner were acknowledged by the first respondent. However, his claim was ultimately rejected vide letter dated 28-1-1984 on the ground that there was paucity of proof in support of the claim preferred by the petitioner.

4. The Pension Scheme was liberalised by the first respondent and cases of those freedom fighters who had once faced rejection were also covered and they were asked to apply afresh in accordance with the Liberalised Scheme, Persons who had already applied were not required to file fresh application. They could, however, send certificates in support of the applications. Accordingly, the petitioner sent certificates of S/Shri Khushi Mohd., Chet Ram and Dy. S.P. Kartar Singh. The claim of the petitioner stands rejected for the reason that due to "lack of necessary certificates it is not possible to grant pension". The petitioner has filed the present petition assailing this decision on 21-5-1991 for direction to the respondents to allow him Freedom Fighter's Pension.

5. We are told that the State of Himachal Pradesh had recommended the case of the petitioner on the basis of the recommendation made by the Deputy Commissioner of the area concerned. There is no reason to disbelieve the version of the petitioner that his externment was on the basis of oral orders since we have accepted this kind of plea in many other similar cases also. Further the petitioner has produced certificates of Kahna Ram, a freedom fighter and Tamar Pattar Holder and receiver of this pension under P.P.O. No. 353/FF/Centre. In view of the contents of this certificate, it is not possible to accept the contention of Shri Dharam Chand Chaudhary who vehemently contended that this freedom fighter could not know about the externment of the petitioner when he himself was in jail. The petitioner was engaged in the Freedom Movements along with other similarly placed persons. Obviously, they must be knowing each other when their object was the same. The second contention that this kind of certificate is not relevant in a case where the externment was on oral orders.

There is no such bar. Moreover, this plea cannot be appreciated. Further, certificate of Khazana Singh, a Freedom Fighter Pension Holder is also there on the file certifying the externment of the petitioner from 1946 to 1948. Why should these certificates be disbelieved about the externment of the petitioner? Certainly not. Similar is out view about the certificate issued Chet Ram, another freedom fighter from the same State receiving pension under PPO No. 17/B/307/72-FF. Certificate of Khushi Mohd. further supports the case of the petitioner as to his externment from 1946 to 1948. He is also in receipt of Freedom Fighter Pension under PPO No. 352/FF/ Centre. As to the externment order, Dy. S. P. Kartar Singh has also given a certificate saying that the petitioner was exiled from Bilaspur State w.e.f. October 1946 to October 1948, on the charge that he was taking active part in the Praja Mandal Movement (Freedom Movement). He is a Police Officer, therefore, had intimate knowledge about the state of affairs prevailing in this State at that particular time and more particularly about the externment of the petitioner.

6. In view of the satisfactory proof of the nature recorded above, there is no manner of doubt that the petitioner was a freedom fighter involved in the movements for the freedom of this country and annexation of princely State of Bilaspur in the dominion of India. His participation is distinctly and squarely established and it would be highly unreasonable to demand any further proof from a freedom fighter like the petitioner to substantiate his case for pension.

7. Lastly, Shri Dharam Chand Chaudhary contended that the case is thoroughly belated. The case of the petitioner had been rejected in 1984 and he did not pursue the matter vigorously. We are not inclined to accept this contention. The petitioner had been moving from pillar to post to seek pension for his participation in the movement. However, he had been facing rough weather at every place. He had not left the efforts and then now ultimately he has approached this Court by way of this petition. We do not see that there is any culpable delay in pursuing and initiating the present case before this Court. The plea based on delay is, therefore, rejected.

8. In view of the discussions aforesaid, we hold that the petitioner is a freedom fighter and entitled to Freedom Fighter's Pension. The respondents would decide his case within two months and make the payment to him from the due date. The petition stands disposed of with no orders as to costs.