
(1999) 05 BOM CK 0001

In the Bombay High Court

Case No : W. P. No's. 366, 744, 3027, 5502 and 5503 of 1998, 176, 194, 195, 197, 198, 199, 1465, 1660, 1664, 1670, 1671, 1675, 1676, 1678, 1682, 1691, 1727 to 1738, 1742, 1743, 1761, 1765, 2016, 1739, 2035, 2034, 2042, 2048, 2047, 2021, 2022, 2023, 2025, 2027 to 2

Tukaram Ramji Koli

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 06-05-1999

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2000 Bom 138 : (1999) 4 ALLMR 105 : (2000) 1 BomCR 686 : (1999) 3 MhLj 735

Hon'ble Judges : S. H. Kapadia, J;B. H. Marlapalle, J;B. B. Vagyan, J

Bench : Full Bench

Advocate : P. M. Shah, V. S. Panpatte, S. B. Talekar, G S. Patil, Ganesh Patel, S. G. Karlekar, S. R. Choukidar, S. S. Pawar, S. K. Shinde and D. J. Choudhari, for the Appellant; A. M. Kanade, Govt. Pleader and A.G.Ps. P. B. Varale, R. P. Phatke, S. K. Kadam, R. S. Deshmukh, K. G. Patil, K. M. Babulgaonker, S. B. Bakhriya, K. B. Chaudhari, A. B. Gaikwad and K. S. Patil, for the Respondent

Judgement

S. H. Kapadia, J.—This is a group of petitions, wherein the petitioners are claiming freedom fighters pension or freedom fighters family pension.

2. The Freedom Fighters Pension Scheme (hereinafter referred to for the sake of brevity as "the said Scheme") was introduced by the Government of India on the occasion of 25th Anniversary of the Independence. It commenced on 15th August, 1972. It provided for grant of pension to the freedom fighters and if they were not alive to their families and also to the families of the martyrs. From 1st August, 1980 the benefit of the Scheme was extended to all freedom fighters irrespective of their income and as a token of honour (Sanman) to them. The eligibility to get the Sanman pension depended upon the freedom fighter having suffered a minimum imprisonment of six months. The object of the said Scheme was to honour and where it was necessary also to mitigate the sufferings of

those who had given their all for the country in the hour of its need. The spirit of the Scheme being both to assist and honour the needy and to acknowledge the valuable sacrifices. The benefit of the Scheme was available irrespective of the date on which the application is made. In the case of Mukund Lal Bhandari and others Vs. Union of India and others, , the Apex Court took the view that pension under the scheme should be made payable only from the date on which the application is made, whether such application is accompanied by necessary proof of eligibility or not. The pension was required to be sanctioned only after the requisite proof is produced. Accordingly, the Apex Court gave certain directions which are mentioned in para 6 of the Judgment. As per the directions given, the Respondents were directed to accept the applications irrespective of the date on which they were made. The applications were directed to be received without raising the plea of limitation. Pension was directed to be paid from the date on which the original application was received. Pension was directed to be paid with or without the requisite evidence. However, sanction of the pension was subject to the requisite proof in support of the claim (Emphasis supplied).

3. Over the years, the State Government issued from time to time various Government Resolutions laying down the criteria to scrutinise the applications for granting State Government's Freedom Fighters Pension to various categories of freedom fighters. The criteria are decided in consultation with high power Committee viz. Freedom Fighters Power Committee. Accordingly, on 5th September, 1992 the Government issued G.R. No. POS. 1092/F.No. 101/FF Cell Mantralaya, which is quoted in its entirety hereinbelow :

"Regarding determination of age in respect of

Underground Freedom Fighter.

Government of Maharashtra

General Administration Department

Government Resolution No. POS. 1092/F No. 101/FF Cell Mantralaya.
Mumbai-400032

Date-5th September, 1992

Read - (1) Govt. Resolution, General Administration Department No. POS-1283
UFF/VK-1/FF dated 3-12-1983.

(2) Govt. Resolution, General Administration Department No. POS-1286/MFF Cell/
dated 7-8-1986.

(3) Govt. Resolution, General Administration Department No. POS/F.N./101/92
F.F. Cell, dated 7-8-1992.

Government Resolution: The question of determining the criteria at the time of making scrutiny of the applications for granting State Government's Freedom Fighter pension to the underground freedom fighters was under the consideration

of the Government. The criteria are being determined in consultation with the Freedom Fighter's Power Committee.

(1) Recommendations should have been made by the "Zilla Gourav Samiti" on the application made for grant of State Government Freedom Fighters Pension to the underground Freedom Fighters.

(2) The Minimum age of the applicant should be 16 years.

(3) The application should be accompanied with the recommendation letter of two Freedom Fighters of the concerned District, who are knowing the applicant since the period of Freedom movement.

As per the decision dated 13-5-1989 of the High Power Committee, the abovesaid criteria shall be made applicable to the applications pending with the Government on 13-5-1989 and to those applications made before 30-4-1984 and thereafter.

By the Order & in the name of Governor of Maharashtra

Sd/-

Deputy Secretary, Govt, of Maharashtra"

As stated hereinabove, the sanction of the pension was dependent upon requisite proof being produced in support of the claim as laid down by the above Judgment of the Supreme Court. Accordingly, on 4th July, 1995 the State Government issued G.R. No. POS-1093/FN.127/FF Cell Mantralaya, laying down directions in the matter of acceptance of applications of freedom fighters without applying the condition of limitation. The said G.R. is quoted in its entirety hereinbelow :

"Regarding Acceptance of Applications of

Freedom Fighters without applying condition of Time limit.

Government of Maharashtra

General Administration Department

Government Resolution No. POS-1093/FN. 127/FF Cell Mantralaya, Mumbai-400032, dated 4th July, 1995.

Read -(1) Govt. Resolution, GAD No. POS-1270/L-1, dated 10th August, 1970

(2) Govt. Resolution, GAD No. POS-1283/UGFF/VK.1/FFCell, dated 3rd December, 1983.

(3) Govt. Resolution, GAD No. POS-1286/UGFF/FF Cell, dated 7th August, 1986.

(4) Govt. Letter, GAD No. POS-1290/1195/FN.122/90/FF Cell, dated 26th December, 1990.

(5) Govt. Resolution, GAD No. POS-1092/FN-101/92/FF Cell, dated 7th August, 1992.

(6) Govt. Resolution, GAD No. POS-1093/FN-105/FF Cell. dated 5th September, 1992.

GOVERNMENT RESOLUTION : As per the decision given by the Supreme Court in Mukundlal Bhandari's case dated 14th May, 1993 and incidental to the decision given by the Bombay High Court, Bench at Aurangabad dated 1st September, 1994, the Honourable Court has opined that the applications of Freedom fighters for grant of Honorary Pension shall be considered and decided on the basis of the evidence without imposing the condition of time limit.

2. In accordance with the abovesaid decision, the Government is hereby issuing the directions that, if the applications are received by the Collector from the freedom fighters or if such applications are pending before him, then in that case, the applications should not be rejected on the ground that the applications are not submitted within stipulated time given by the Government. Such applications shall be forwarded to the Government along with the recommendation of "Zilla Gaurav Samiti" for consideration of the applications, on merit.

3. In order to dispose of the applications of freedom fighters expeditiously, the applications should be accompanied with proper evidence. If the applicant has not enclosed the evidence along with his application, then in that case, necessary evidence be called for and the application be forwarded to the Government along with the evidence and recommendations of Zilla Gaurav Samiti. 3A. The freedom fighters are required to furnish the following evidence along with their applications.

(A) The freedom fighters who have undergone the imprisonment (1) the original certificate issued by the concerned Jailor in respect of imprisonment undergone (by the freedom fighter),

(AA) Freedom Fighters who remained absconded due to issuance of arrest warrant.

(1) Certificate of concerned Officer in respect of arrest warrant.

(2) If declared as absconded by the Court, then the certified copy of the Court Record (should be submitted).

(3) The original news report published in the relevant newspaper in respect of the absconded freedom fighter.

(B) UNDERGROUND FREEDOM FIGHTER :

The following documents are necessary to be submitted by those freedom fighters, who worked as underground freedom fighters during 1942-44 in "Quit India" movement and during 1947-48 in Hyderabad Freedom movement.

(1) The applicant should submit the certificate stating as to what type of problems and hardships he had undergone due to participation in freedom movement.

(A) He had to remain away from his house and family.

(B) Whether he gave up education or he was expelled from any educational institution.

(C) He was beaten up by the Police in such a manner, that he has become disabled.

(2) It should be certified by two Freedom Fighters of their respective areas who had either undergone at least 2 years imprisonment or those who had been declared absconded or who had been absconding for at least 2 years. Such certificate should be accompanied with the copies of jail certificates about the imprisonment or copies of Government orders or an advertisement declaring the freedom fighter as absconder. Besides this, duly verified affidavit of the freedom fighter issuing the certificates, should also be enclosed with it.

(3) Certified copy of the Government record, if available showing him that he was a underground (freedom fighter).

(4) The original newspaper of the news describing the name etc. of the applicant, if he has worked as underground freedom fighter.

(5) While recommending its opinion, the Zilla Gaurav Samiti should clearly mention about the criteria of remarks and give the information thereof.

(C) THE FREEDOM FIGHTERS THOSE WHO PARTICIPATED IN GOA LIBERATION MOVEMENT:

The persons those who had participated in "Satyagraha" movement that took place at Goa boundary through "Goa Vimochan Samiti" in the year 1955 for Liberation of Goa are being paid the pension. Following certificates are necessary in this respect:

(1) Certificate issued by Goa Vimochan Samiti of having been participated in the "Satyagraha".

(2) The original newspaper in which the news is published about participation of freedom fighter in the movement or if his name was appeared about his welcome after his return.

(4). This Government Resolution shall be applicable to all pending matters. In case of those matters which are pending in the Collector Office and if aforesaid certificates are not enclosed therewith, then in that case, the Collector should direct the concerned persons to submit the abovesaid certificates within a prescribed period. After receipt of certificates, the applications should be placed before the Zilla Gaurav Samiti for its remarks. And after receipt of the remarks of Zilla Gaurav Samiti, the said applications along with remarks, should be

forwarded to the Government immediately.

This Government Resolution issued with the concurrence of the Finance Department vide unofficial reference No. CR 1183/94/Expenditure-4 dated 10th November, 1994.

By order and in the name of Governor of Maharashtra.

A. V. Amberkar.

Joint Secretary.

Govt. of Maharashtra.

To

Secretary to Governor

Secretary to the Chief Minister"

(Both the above G.Rs. are English Translation of the Marathi documents).

4. In Writ Petition No. 5376 of 1995 which came for final hearing before the then Division Bench of this Court (A. D. Mane and R. J. Kochar, JJ.), the facts were as follows.

The Petitioner made an application to the Collector for grant of freedom fighters pension on 26th December, 1990. The claim was rejected. However, thereafter, the Petitioner filed Writ Petition No. 2569 of 1994 in which the decision of the Collector was set aside and the matter was remanded back for fresh decisions to the Collector. On remand, the Petitioner's application for pension was rejected once again on 17th December, 1994 for want of evidence. The Petitioner preferred Writ Petition No. 5373 of 1995 challenging the decision of the Collector dated 17th December, 1994. In the said Petition, the Petitioner relied upon the copy of the Certificate conferring Sanman Patra signed by the Chief Minister on 21st March, 1991 and the Petitioner contended that under the above circumstances he fulfilled the directives laid down by the Government under the previous G.R. i.e. G.R. bearing No. POS-1093/FN. 127/FF Cell Mantralaya, dated 4th July, 1995. In reply affidavit, it was contended on behalf of the Respondents that the policy regarding Swatantrya Sainik Sanman was reviewed by G.R. dated 4th July, 1995 and the Petitioner was not eligible for freedom fighters pension as the Petitioner's claim was pending on 4th July, 1995 and since the Petitioner did not fulfil the directives laid down under the said G.R. dated 4th July, 1995 pension could not be sanctioned for want of requisite proof in support of the Petitioner's claim. One of the main point which arose for determination before the earlier Division Bench in Writ Petition No. 5376 of 1995 was : whether the Government Resolution dated 4th July, 1995 was retrospective? The earlier Division Bench laid down that since the claim of the Petitioner was filed much prior to G.R. dated 4th July, 1995 the said G.R. had no retrospective effect. Accordingly, the Petition came to be allowed. However, in a subsequent matter,

which came before the Division Bench of this Court vide Writ Petition No. 366 of 1998 comprising of one of us (N. P. Chapalgaonker and B. H. Marlapalle, JJ.), the Division Bench took the view that in view of the clear mandate of the G.R. dated 4th July, 1995 [vide clause (4)] and taking into the objects behind issuance of the said G.R., it cannot be said to be retrospective. The Division Bench observed vide para 6 as follows :

"6. When the State intends to give certain concessions or benefits to a class of persons, identification of individuals in that class and ascertainment whether they belong to that class will have to be done by the scrutiny. Requirement of evidence for the purpose of scrutiny may be changed at any time. Such a change may be based upon past experience wherein persons who are not eligible might have claimed benefits. This change may be effected by the State and it cannot be said to be retrospective. When the scrutiny is to be done, the instructions which are in force on that day will be applicable. This cannot be termed to be retrospective. When the applications are pending and the scrutiny is to be done, scrutiny will have to be done on the basis of the requirements of the evidence laid down by the State and which are applicable on that day. We, therefore, do not see any reason to hold that this would be a retrospective operation. Benefit of the scheme is not being denied to persons who really participated in the freedom movement but the Government wishes to change the method of scrutiny ascertaining entitlement of person and there is nothing wrong in it."

In view of the difference of opinion, the Division Bench directed the Registry to place the above Writ Petitions before Honourable the Chief Justice with a request to constitute a Full Bench and accordingly the matters have come before this Bench.

5. The short point which arises for consideration is : whether the pending cases of the freedom fighters' claim as on 4th July, 1995 are required to be considered under G.R. dated 5th September, 1992 or under G.R. dated 4th July, 1995?

The above matters were listed after giving notice to various advocates and parties. It was urged on behalf of the Petitioners that in view of the Judgment of the Supreme Court in the case of Mukund Lai Bhandari (supra), the object of the G.R. was to honour and to mitigate the sufferings of those who had given their all for the country in the hour of its need. It was contended that the spirit of the Scheme is required to be seen by the Court while interpreting the G.R. dated 4th July, 1995. It was urged that the object of the Scheme was to assist and honour the needy and acknowledge the valuable sacrifices made. It was contended that the object of the Scheme is not to convert the Scheme into some kind of programme for compensation. It was urged that the Supreme Court has clearly laid down, in the above Judgment, that the Scheme was available irrespective of the income limit. It was contended on behalf of Petitioners that in the said Judgment the Supreme Court has laid down clearly that notwithstanding the date on which the application is made, the claimant would be entitled to the benefit of the pension with effect from earlier date. It was urged that in the said Judgment,

Supreme Court has clearly laid down that pension would be payable whether application is accompanied by the necessary proof of eligibility or not. Accordingly, it was contended on behalf of the Petitioners that the G.R. dated 4th July, 1995 was enacted by the Government only to relax the time limit and for no other purpose. It was urged on behalf of the Petitioners that prior to the said Judgment of the Supreme Court in the case of Mukund Lai Bhandari (supra), the Collector had rejected the application on the ground that it was beyond the prescribed time limit. It was urged on behalf of the Petitioners that in view of the said Judgment of the Supreme Court in Mukund Lai Bhandari's case (supra), pension was required to be paid irrespective of the time limit and in the light of the said decision the Government issued G.R. dated 4th July, 1995. Accordingly, it was contended that the directives contained in para 3 of the said G.R. were irrelevant. It was urged on behalf of some of the Petitioners that their claims have been pending before the Collector from the date prior to the previous G.R. dated 5th September, 1992. It is contended on behalf of some of the Petitioners that they have fulfilled the directives/criteria for grant of pension under the earlier Resolutions and in the circumstances they cannot be called upon to fulfill the directives contained in G.R. dated 4th July, 1995, which, as stated hereinabove, was issued for totally different purpose, namely, to decide the applications of freedom fighters without applying condition of time limit. It was accordingly contended that the G.R. dated 4th July, 1995 cannot be read retrospectively. It was urged on behalf of some of the Petitioners that if the G.R. dated 4th July, 1995 is read retrospectively, it would attract the vices of arbitrariness and it would defeat the Petitioners' fundamental rights under Article 14 of the Constitution. It was submitted that the conditions mentioned in the said G.R. of 4th July, 1995 are unreasonable, arbitrary and violative of the Petitioners' fundamental rights and, therefore, the said conditions are liable to be struck down. It was urged on behalf of some of the Petitioners that the said conditions were totally unreasonable and they were not capable of being complied with by the freedom fighters and hence the said conditions were totally unreasonable, illogical and would defeat the very purpose and object of the Scheme. It was contended that the conditions prevalent on the date when the application was made alone are the criteria and subsequent conditions imposed by the G.R. dated 4th July, 1995 cannot be treated as the criteria for grant of pension. It is urged that clause (4) of the G.R. dated 4th July, 1995 is totally ultra vires to the Petitioners' fundamental rights as it lays down that the Petitioners' applications will not be placed before the Zilla Gaurav Samiti till the applicant fulfills the various directives laid down by the said G.R. It was submitted that, in any event, the said G.R. dated 4th July, 1995 laid down the procedural law which cannot operate retrospectively so as to defeat the vested rights of the claimants. It was urged on behalf of the Petitioners that in certain cases the Collectors in different areas processed the applications expeditiously whereas the Collectors in certain areas were slow to dispose of the applications. It was urged that in cases where applications were cleared in time, the previous G.R. of 5th September, 1992 came to be complied with and pension was released

on compliance of the said G.R. of 1992 whereas for no fault of the Petitioners herein, since the Collectors did not process the Petitioners' applications in time, new conditions have now been imposed on the Petitioners which virtually incapacitate the Petitioners in the matter of receiving pension particularly as the Petitioners were not in a position to comply with the directives contained in the G.R. dated 4th July, 1995. Large number of authorities were cited on the question of retrospectivity qua vested rights of the Petitioners as alleged. It was also urged that in some cases the files have been cleared. That the Zilla Gaurav Samiti, in fact, has recommended the cases to the Government and now under the guise of G.R. dated 4th July, 1995 the Petitioners were denied the pension. In the circumstances, the Petitioners contend that the said G.R. dated 4th July, 1995 is, prospective and not retrospective. That the said G.R. would apply only to the applications made on or after 4th July, 1995 and not to the applications made prior thereto.

On the other hand, it has been contended on behalf of the Government that the Government was duty bound to pay pension to freedom fighters. It was urged on behalf of the Government that the spirit of the Scheme was to assist and honour the needy for acknowledgment of the valuable sacrifices made by the freedom fighters. It was urged on behalf of the Government that, however, the Supreme Court has made it very clear that pension should be sanctioned only after the requisite proof is produced. It was urged on behalf of the Government that the main question which arose before the Supreme Court in the case of Mukund Lai Bhandari (supra) was : whether notwithstanding the date on which the application is made the claimant was entitled to the benefit of pension with effect from the earlier date? It was urged on behalf of the Government that it is in the light of the above controversy that the Supreme Court has observed that the benefit should be made available with retrospective effect i.e. from the date on which the application is made and it was in that context that the Supreme Court has observed that pension should be paid from the date on which the application is made, whether such application is accompanied by the necessary proof of eligibility or not. It was urged on behalf of the Government that the Supreme Court has clearly laid down that however, the pension shall be sanctioned only after the requisite proof is produced. It was urged on behalf of the Government that thousands of applications have come before the Collectors in the State. It was urged on behalf of the Government that directives were required to be laid down regarding the requisite proof to be produced in order to ascertain the genuineness of the claim. It was urged that in the above Judgment of the Supreme Court it has been clearly laid down that the sanction of the pension was subject to the requisite proof in support of the petitioner's claim and for that purpose the directives have been laid down. It was urged on behalf of the Government that the Government was required and duty bound to pay the pension to the freedom fighters but that did not prevent the Government from laying down the directives to be complied with in the matter of requisite proof of eligibility. Under the above circumstances, it was urged that all applications

which did not fulfill the requirement of the G.R. dated 4th July, 1995 were required to be processed in the light of the G.R. dated 4th July, 1995. Hence, the said G.R. dated 4th July, 1995 was applicable to all applications which were pending on that date.

6. We have carefully considered the rival contentions of the parties. There cannot be two opinions that the spirit of the Scheme was to assist and honour the needy and acknowledge the valuable sacrifices made by the freedom fighters. It was for this reason that the Supreme Court laid down that the benefit should be given to the freedom fighters retrospectively i.e. from the date when the application is made to the Government. The controversy which arose before the Supreme Court in the case of Mukund Lai Bhandari (supra) was : whether the pension was payable in cases where applications were filed after the prescribed date and, if so, whether the pension was payable from the date of the application or whether it was payable only from the date when the claimants produced the requisite documentary proof in support of their claim. It is in the light of the above controversy that the Supreme Court has laid down that once the claimant fulfills the directives, pension would be payable from the date on which the application is made. If the claimant files an application on 1st January, 1995 without the requisite documents but complies with the directives on 1st February, 1995 then in accordance with the ratio of the Supreme Court's Judgment, the cut off date will be 1st January, 1995 and not 1st February, 1995 although the requisite documents were furnished by the claimant after making an application on 1st January, 1995. That controversy does not arise in the present case. In the present case, the Government contends that they are bound to pay pension from the date when the claimant applies even if on that date the claimant has not tendered the documents in support of his claim. However, the question which arises for determination in the present case is : whether the Government directives contained in G.R. dated 4th July, 1995 would apply to the pending applications and, if so, whether the claimants who applied for pension before that date were required to fulfill the criteria/directives as per G.R. dated 4th July, 1995. In our view, the question of retrospectivity does not arise. As laid down in the Judgment of the Supreme Court, pension should be sanctioned by the Government only after the requisite proof is produced. It would not be correct to say that the G.R. dated 4th July, 1995 only deals with acceptance of the applications of the freedom fighters after the prescribed time limit. The said G.R. lays down the directives which are required to be fulfilled by the applicants constituting the necessary proof of eligibility. If the application was pending on 4th July, 1995 the same will have to satisfy the requirements of the G.R. dated 4th July, 1995. At this stage, we may point out that the applications made by the claimants are first processed by the Collector. The Collector has to satisfy himself as to whether the requirements of the G.R. dated 4th July, 1995 are fulfilled or not. The claimant has to annex the documents to his application. The Collector has to find out whether the requisite documents have been annexed to the claimant's application. After the Collector processes the application, the same is

forwarded to the Zilla Gaurav Samiti. The said Samiti is required to ascertain the genuineness of the claim. The said Samiti recommends the case to the Government and, thereafter, the Government sanctions the pension. In the circumstances, we find merit in the contentions advanced on behalf of the Government that the Government is entitled to prescribe by way of directives the necessary proof of eligibility and having so prescribed it is the duty of the applicants to produce the relevant documents in support of their claim. Reading the G.R. dated 4th July, 1995 as a whole, it is clear that it applies to all the pending applications. It does not empower the Government to reopen the cases where pension is already sanctioned. Clause (4) of the G.R. makes it very clear that it will apply to all pending matters and if the requisite Certificates are not enclosed to the application then, in that event, the Collector is empowered to ask the applicant to submit the Certificates. Under clause (4) it is further laid down that after receipt of the Certificates, applications will be placed before the Zilla Gaurav Samiti who shall forward the same to the Government along with their opinion/remarks. Under the above circumstances, we are of the view that there is no question of retrospectivity of the said G. R. dated 4th July, 1995. All applications which are pending as on 4th July, 1995 are required to be supported by the requisite Certificates as mentioned in the G.R. dated 4th July, 1995. This is in the light of the Supreme Court Judgment in the case of Mukund Lal Bhandari (supra) in which it has been clearly laid down that the pension should be sanctioned only after the required proof is produced. That required proof is laid down under the G.R. dated 4th July, 1995. If that proof is not produced the application remains incomplete. However, once the application is complete in all respects per the G.R. dated 4th July, 1995, the Collector shall place it before the Zilla Gaurav Samiti for its recommendations/remarks/opinion. Once the Government sanctions the pension it will apply retrospectively from the date of the application. This is in consonance with the Judgment of the Supreme Court in the case of Mukundlal Bhandari (supra). In the circumstances, all applications pending on 4th July, 1995 will have to comply with the directives laid down in G.R. dated 4th July, 1995.

7. The G.R. dated 4th July, 1995 specifies that it is applicable to all pending cases and further states the remedial measures to be taken by the parties as per the directions of the Collector, only in respect of the applications/claims pending before the Collector. The G. R. therefore, provides remedial measures by way of removing the deficiencies and to comply with the additional requirements of the new G.R. dated 4th July, 1995 only in respect of the claims/applications pending before the Collector as on 4th July, 1995 and therefore, we are of the considered view that the said G.R. is applicable only to the cases pending before the Collector as on 4th July, 1995. If it was the intention of the Government to make the G.R. applicable to all the cases including the cases pending before the Government, the Government ought to have taken steps to provide for remedial measures even for the claims pending before the Government and this has not been done. We may also clarify that it will not be proper for the Government to

reject the applications processed by the Gaurav Samiti and pending before the Government for final decision solely on the ground that they do not comply with the requirements of G.R. dated 4th July, 1995 specifically when all these claims have been scrutinized by the Collector and recommended by the Gaurav Samiti on the basis of the guidelines/requirements that were in force at the relevant time.

8. Accordingly, we answer the above questions referred to this Court as follows :-

(a) The said Government Resolution No. POS-1093/FN.127/FF Cell Mantralaya, dated 4th July, 1995 shall apply to all pending applications before the Collector as on 4th July, 1995 except in cases where Zilla Gaurav Samiti has already recommended the case for pension to the Government.

(b) For the reasons recorded hereinabove, the decision of the earlier Division Bench in Writ Petition No. 5376 of 1995 decided on 2nd September, 1998 stands overruled.

(c) We have not examined the vires of the Government Resolution No. POS-1093/FN.127/FF Cell Mantralaya dated 4th July, 1995. The said question is expressly left open.

9. In the light of the above decision the Writ Petitions will now be placed before the appropriate Division Bench for hearing and final disposal.