

**(2003) 09 SC CK 0037**

**In the Supreme Court Of India**

**Case No : Civil Appeal No. 1850 Of 1999**

Union of India (UOI)

APPELLANT

Vs

Bikash R. Bhowmick and Others

RESPONDENT

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**Date of Decision :** 24-09-2003

**Acts Referred:**

**Citation :** (2005) 1 ALT 34 : (2004) 7 SCC 722

**Hon'ble Judges :** S. Rajendra Babu, J;G. P. Mathur, J;AR. Lakshmanan, J

**Bench :** Full Bench

**Final Decision :** Allowed

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## **Judgement**

1. Respondent 1 claimed that he was entitled to the benefit of the Swatantrata Sainik Samman Pension Scheme, 1980 (hereinafter referred to as the Pension Scheme) and made an application for grant of the pension thereof. As no jail records were available with him, he sought to prove that he was entitled to the pension by producing affidavits sworn by one Trailok Nath Mandal and certificate issued by the Headmaster of a school. In the affidavits filed by Trailok Nath Mandal he stated that he was a freedom fighter of great reputation and he was imprisoned and confined to Midnapur Jail which is now in West Bengal; that he was receiving pension under the Central Government in terms of the Pension Scheme since 1975; that Respondent 1 was a student in Kala North East School and actually participated in the independence struggle in Quit India Movement under the leadership of Niharendu Dutta Majumdar; that Respondent 1 was confined to Jessore Jail and he had gone to meet him during October 1944; and that Respondent 1 had been in imprisonment for 192 days. The requirement under the relevant Pension Scheme is that a certificate should be issued by two co-prisoners from the freedom-fighter pensioners who had a proven jail suffering of one year in the event of non-availability of jail records. Inasmuch as, in this case, there are no records of jail and the only affidavit produced is that of a person who had visited him and who had visited and who was not a co-prisoner with him at all, the other certificate issued by the Headmaster of the school will

not carry the matter any further which is not a document contemplated under the Pension Scheme at all. On such material, the authorities having rejected the claim of Respondent 1, the matter was carried by way of a writ petition to the High Court. The High Court after adverting to the material to which we have referred to stated that Respondent 1 has substantially complied with the prerequisites as to suffering imprisonment under the Pension Scheme and allowed the writ petition directing the State Government to make a recommendation to the Central Government to take effective steps therefore. It is against that order, this appeal is filed.

2. Learned Additional Solicitor General appearing on behalf of the Union of India relied upon two decisions of this Court viz., *Mukund Lal Bhandari v. Union of India* 1993 Supp (3) SCC 2 and *Union of India v. Mohan Singh* (1996) 10 SCC 351 to the effect that pension could be sanctioned only as per proof as required in the Pension Scheme and in no other manner. We think there is great force in the submission made by the learned Additional Solicitor General. We find that the High Court could not have travelled beyond the Pension Scheme to find that there was substantial compliance with the prerequisites as to suffering of imprisonment. In order to get the benefit of the Pension Scheme, the proof required must be as provided in the Pension Scheme itself. As long as such proof was not available, the benefit could not have been granted. Therefore, we set aside the order by the High Court and dismiss the writ petition filed by Respondent 1. The appeal is allowed accordingly.