
(2005) 08 KL CK 0031
In the High Court Of Kerala
Case No : W.A. No. 117 of 2005

Union of India (UOI)

APPELLANT

Vs

Radhamony

RESPONDENT

Date of Decision : 16-08-2005

Acts Referred:

Citation : (2005) 3 ILR (Ker) 719 : (2005) 4 KLT 27

Hon'ble Judges : Rajeev Gupta, C.J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : S. Prasanth, A.C.G.S.C, for the Appellant; K.K. Satheesh, for the Respondent

Final Decision : Allowed

Judgement

K.S. Radhakrishnan, J.—The issue raised in this appeal is regarding the date of eligibility for granting pension under the Swatantra Sainik Samman Pension Scheme.

2. Writ Petitioner is an unmarried daughter of a freedom fighter, who was the grantee of the Kerala Freedom Fighters Pension as well as the Central Freedom Fighters Pension. She submitted an application on 15.4.1998 to the Union of India for family pension as a dependent of the freedom fighter after the death of her father. That application was allowed by Ext.P4 order granting family pension from 3.12.2003. The writ petitioner approached this Court and sought for a declaration that she is entitled to get arrears of pension with effect from 20.1.1998, the date of recognition of Punnapra-Vayalar Movement or atleast with effect from 15.4.1998, the date of Ext.P1 application for grant of SSS Pension. Petitioner has also sought a direction to the respondent to grant the arrears of dependent family pension for the period from 20.1.1998 to 2.12.2003. The learned Single Judge disposed of the Writ Petition placing reliance on the decision of this Court in Krishnankutty Vs. Union of India (UOI), holding that the petitioner is entitled to get family pension as a dependent with effect from 20.1.1998, the date on which the Punnapra - Vayalar Movement was recognised

by the authorities as a National Freedom Struggle.

3. Learned counsel for the petitioner has also submitted that in similar circumstances the respondents have granted pension from the date of introduction of the Scheme.

4. Learned Counsel appearing for the appellant Union of India however brought to our knowledge the decision of the Apex Court in *Mukund Lal Bhandari and others Vs. Union of India and others*, wherein the Apex Court has examined the question regarding the eligibility for Central Pension. While disposing of the matter the Apex Court gave the following directions:

"(a) The respondents should accept the applications of the petitioners irrespective of the date on which they are made. The applications received hereafter should also be entertained without raising the plea that they are beyond the prescribed date.

(b) The respondents should scrutinise every application and the evidence produced in support of the claim and dispose it of as expeditiously as possible and in any case within three months of the receipt of the application, keeping in view the laudable and sacrosanct object of the Scheme.

(c) The pension should be paid to the applicant from the date on which the original application is received whether, the application is filed with or without the requisite evidence. The sanction of the pension would, however, be subject to the requisite proof in support of the claim."

It is evident from the above mentioned directions given by the Apex Court that pension should be given to the applicant from the date on which the original application is received irrespective of whether the application is filed with or without requisite evidence. It is also opined that the sanction of pension would however be subject to the requisite proof in support of the claim. The Apex Court has already held that the relevant date is the date on which the application was received by the authorities. Judgment of the learned Single Judge in *Krishnankutty's* case is therefore not good law.

5. In such circumstances we are inclined to allow this appeal. The judgment of the learned Single Judge is set aside. We hold that the writ petitioner is entitled to get pension under the Swatantra Sainik Samman Pension Scheme only from 20.4.1998, the date of receipt of his application.

The Writ Appeal is allowed as above.