

Union of India

Vs

Mohan Singh and Others

Civil Appeal No. 12314 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

09.09.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. This appeal by special leave arises from the judgment and order dated 1-6-1995 made by the Punjab and Haryana High Court in Civil Writ Petition No. 3790 of 1994. The first respondent, claiming to be a freedom fighter, made an application on 1-8-1972 for pension under the Freedom Fighters' Pension Scheme framed by the Government of India. The primary evidence in support of his undergoing imprisonment for six months has been based on a certificate of an MLA and co-prisoner. That certificate was considered by the appellant-Government, as per the directions of the High Court in an earlier writ petition, and it is found that the respondent was not a freedom fighter and, therefore, not entitled to the pension under the Freedom Fighters' Pension Scheme. The respondents again challenged the decision in the present writ petition. The High Court in the impugned order has held that in view of the evidence produced by the respondents, they must be declared freedom fighters. Accordingly, the writ petition has been allowed. Hence, this appeal by special leave.

4. This Court in *Mukund Lal Bhandari v. Union of India* [1993 Supp (3) SCC 2] had held : (SCC pp. 5-6, para 6)

"As regards the sufficiency of the proof, that the Scheme itself mentions the documents which are required to be produced before the Government. It is not possible for this Court of scrutinize the documents which according to the petitioners, they had produced in support of their claim and pronounce upon their genuineness. It is the function of the Government to do so. We would, therefore, direct accordingly."

5. It is seen that the High Court had directed the Government, in the earlier writ petition, and in compliance thereof the Government of India had considered the documents relied upon by the respondents and came to the conclusion, as a fact, that these documents are not sufficient to conclude that the respondents had suffered imprisonment. The High Court found it, on appreciation of evidence, to be sufficient, which the High Court cannot embark upon.

6. The appeal is accordingly allowed and the order of the High Court stands set aside. The writ petition stands dismissed but under the circumstances without costs.