

# SUPREME COURT OF INDIA

C. Venkat Reddy

Vs.

Union of India

Writ Petition (Civil) No. 403 of 2006

(DR. Arijit Pasayat and P. Sathasivam JJ.)

08.05.2009

## JUDGEMENT

**Dr.Arijit Pasayat, J.**

1. Writ Petition (C) NO. 403 OF 2006 filed under Article 32 of the *Constitution of India, 1950* (in short the 'Constitution') has been filed by 25 petitioners claiming to be freedom fighters. They make a grievance that they had applied for freedom fighters' pension under the *Swatantrata Sainik Samman Pension Scheme, 1983* (in short the 'Scheme') but there has been denial of the pension without any reason. It is stated that several special screening committees constituted by the State have favourably recommended their cases but nothing concrete has been done and the State Government also has shown little interest in the matter. Similarly in Writ Petition No. 46 of 2006, 32 persons have made similar grievance. In each of these cases, the claim is that the petitioner suffered imprisonment as a part of the freedom fight and therefore is entitled to the pension.

2. Learned counsel for the Union of India and the Government of Andhra Pradesh have filed details and have stated that so far as the Writ Petition No. 403 of 2002 is concerned, after a preliminary verification it was noted that 22 cases were found to be genuine cases and have been recommended. In case of one Sh. Narayana Reddy, it was found that he was under age as on March, 1947 and he was not entitled to any benefit. It was also noted that two others namely Sh. K.J. Shiva Nagaiah and Smt. Gangamma are dead and therefore the question of making any recommendation does not arise. It is stated that on the basis of the orders passed by this Court, 22 persons found to be prima facie genuine are being paid pension with effect from 1.4.2002. This position is accepted by learned counsel for the petitioners.

3. The object of the scheme was highlighted by this Court in *Mukundlal Bhandari v. Union of India and Ors.*<sup>1</sup> "The object 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. In fact, many of those who do not have sufficient income to maintain themselves refuse to take benefit of it since they consider it as an affront to the sense of patriotism with which they plunged in the freedom struggle. The spirit of the scheme being both to assist and honour the

needy and acknowledge the valuable sacrifices made, it would be contrary to its spirit to convert it into some kind of a programme of compensation. Yet that may be the result if the benefit is directed to be given retrospectively whatever the date the application is made. The Scheme should retain its high objective with which it was motivated..."

4. Again in *Gurdial Singh v. Union of India*<sup>2</sup> this Court observed as follows:

"It should not be forgotten that the persons intended to be covered by the scheme have suffered for the country about half a century back and had not expected to be rewarded for the imprisonment suffered by them. Once the country has decided to honour such freedom fighters, the bureaucrats entrusted with the job of examining the cases of such freedom fighters are expected to keep in mind the purpose and object of the scheme...."

5. We are in respectful agreement with the view expressed in Mukundlal's and Gurdial Singh's cases (supra). Genuine freedom fighters deserve to be treated with reverence, respect and honour. But at the same time it cannot be lost sight of that people who had no role to play in the freedom struggle should not be permitted to benefit from the liberal approach required to be adopted in the case of the freedom fighters, most of whom in the normal course are septuagenarians and octogenarians. It baffles one, beyond comprehension, when claim is made by a person who was not even born during the freedom struggle to be a freedom fighter. Accepting claims of such persons to be freedom fighters would be making a mockery of the scheme which is intended for genuine freedom fighters.

6. The above position was highlighted in *Bhaurao Dagdu Paralkar v. State of Maharashtra*<sup>3</sup>.

7. For the reasons given above Writ Petition (C ) No. 403 of 2006 is disposed of on the terms that in the 22 cases which have been found to be prima facie genuine, let payment of pension be continued. It is made clear that if in future any further action on the basis of materials is warranted, the same can be taken in accordance with law.

8. Writ petition is accordingly disposed of.

WRIT PETITION (CIVIL) NO. 293 OF 2006 and WRIT PETITION (CIVIL) NO. 46 OF 2006

9. It has been pointed out by learned counsel for the Government of Andhra Pradesh that the summary of events is as follows:

10. On 30.7.2005 the Govt. have entrusted to Director General, Vigilance & Enforcement Deptt. A.P., Hyderabad, for enquiry.

11. On 12.6.2006 Director General, Vigilance & Enforcement Deptt. A.P., Hyderabad, has submitted report.

12. On 11.4.2007 the decision to conduct 100% re-verification has been communicated to all the District Collectors-duly forming three Member Committee.
13. A check list in consultation with the Govt. of India officials has also been prepared and sent to the District Collectors for conducting re-verification.
14. On consultations with the officials of the Govt. of India, Ministry of Home Affairs (FF Division), amendments to the Check list (already send) has also been issued.
15. The process of re-verification was progressing rather slowly on account of certain ground level problems in the villages.
16. On 4.4.2007 & 23.5.2007 the reasons (mentioned aboe) for delay for furnishing of verification in respect of W.P.(C ) No. 403 of 2002 filed by Sr. C.Venkat Reddy & Ors. have been communicated the A.O.R.
17. However the Govt. have received certain re-verification reports from the Districts and they were forwarded to the Govt. of India but the Govt. of India could not take any decision on the above cases.
18. On 19.9.2007 the Govt. of India have constituted a Screening Committee of Eminent Freedom Fighters (SCEEF)- under the Chairmanship of Sri Konda Laxman Bapuji, alongwith eight other Members, to scrutinize the re-verified cases relating to Border Camp sufferings during Hyderabad Liberation Movement.
19. On 28.9.2007 the Govt. of India have changed the earlier check list and furnished a revised one for conducting re-verification of the cases.
20. As such on 7.12.2008 the Govt. of India have returned above 79 cases, which were sent to them with earlier check list, with a request to conduct re- verification based on their revised check list of 28.9.2007.
21. On 9.1.2008 first meeting of the Screening Committee of Eminent Freedom Fighters is held.
22. The Govt. of A.P. have received about 350 proposals and forwarded about 197 cases to Govt. of India.
23. On 18th and 19th February, 2008, second meeting of the Screenings Committee of Eminent Freedom Fighters is held and about 50 cases were discussed.
24. On 27.3.2008, third meeting of the Screening Committee of Eminent Freedom Fighters is held and about 15 cases were discussed.

25. Taking into account the various steps taken by the State of Andhra Pradesh, we direct that the enquiry which is stated to be pending be completed within two months. Immediately thereafter the report be submitted by the concerned Ministry to the Union of India. On receipt of the report from the State Government, the Union of India is directed to take necessary follow up within a period of three months.

26. The writ petitions are accordingly disposed of.

<sup>1</sup>(AIR 1993 SC 2127)

<sup>2</sup>(2001 AIR SCW 3843)

<sup>3</sup>(2005(7) SCC 605)