
(1991) 1 RLW 571 : (1991) 2 RLW 597 : (1991) 2 WLN 485

Rajasthan High Court

Case No: Civil Writ Petition No. 1730 of 1988

Durga Prasad
Choudhary

APPELLANT

Vs

State of Rajasthan and
Others

RESPONDENT

Date of Decision: May 2, 1991

Citation: (1991) 1 RLW 571 : (1991) 2 RLW 597 : (1991) 2 WLN 485

Hon'ble Judges: I.S. Israni, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

I.S. Israni, J.

Heard. It is submitted by Shri Choudhary, learned Counsel that petitioner is himself a freedom fighter and Member of Rajasthan Swatantrata Senani Sahayak Samiti, Jaipur (for brevity "the Samiti"). It is pointed out that respondent No. 3 applied for pension as freedom fighter and is receiving pension since, 1982. However, the petitioner lodged a complaint on 10.6.82 before the Home Secretary, Government of India and also Chairman of the Samiti that the respondent No. 3 did not participate in freedom movement and even though he was arrested and lodged in Jail, he apologised in writing and came out. Therefore, respondent No. 3 is not entitled to get any pension which should be cancelled. It is also submitted by learned Counsel that a Committee under Chairmanship of Chief Minister was formed on receiving complaint of the petitioner to re-consider the matter of pension granted to respondent No. 3, but the report/decision is still awaited.

2. It is submitted by Miss. Deepa Ajwani, learned Assistant Government Advocate that a reply has filed on behalf of the State. It is pointed out that pension to freedom fighter is granted by order of Central Government, but it has not been made a party to this petition. Therefore, this petition suffers from defect of non-joinder of essential party. It is, however, submitted that on the complaint of the petitioner a report was obtained from Collector,

Ajmer, who wrote that such old record of Jail is not available. It is also submitted that a letter dated March 29, 1989 was received from Ministry of Home-Affairs, Government of India under signature of W.D.Alain, Under Secretary, which has been produced for perusal of this Court. It is mentioned in this letter that on the complaint of the petitioner the matter was re-considered carefully regarding tendering apology by the respondent No. 3. It is pointed out the respondent No. 3 was confined to Jail from 9.8.1942 to 4.3.1943 and thereafter, he tendered apology and was released from the Central Jail, Ajmer. It is further mentioned that "under the existing provisions of the scheme persons released on tendering apology were not eligible for grant of pension if actual period of sufferings undergone by them was less than 6 months. Where the actual period of sufferings exceeds 6 months and then apology was tendered there is no question of debaring the person for grant of pension." It is further stated that since Ramlal Goyal, respondent No. 3 has been in jail for more than 6 months, he is, therefore, entitled to get the pension.

3. I have heard both the parties and gone through the documents on record.

4. It is evident from the letter of the Home Secretary referred to above that the matter of the respondent No. 3 was re-considered and thereafter a decision has been already taken by Central Government that he is entitled to receive the pension. There is provision in the scheme that even though a person has tendered apology, but he has remained in jail for more than 6 months he will be entitled to get the pension. The respondent No. 3 falls in this category.

5. I am, therefore, of the considered opinion that respondent No. 3 is entitled to get the pension of freedom fighter which is getting at present. I do not find any force in this writ petition, which is, therefore, dismissed with no order as to costs.