
**AIR 2010 SC 190 : (2009) 8 SCALE 46 : (2009) 6 SCC 472 : (2009) 2 SCC(L&S) 221 :
(2009) 9 SCR 493**

Supreme Court of India

Case No: Writ Petition (Civil) No"s. 403 of 2002, 46 and 293 of 2006

C. Venkat Reddy and
Others

APPELLANT

Vs

Union of India (UOI)
and Others

RESPONDENT

Date of Decision: May 8, 2009

Acts Referred:

Constitution of India, 1950 " Article 32

Citation: AIR 2010 SC 190 : (2009) 8 SCALE 46 : (2009) 6 SCC 472 : (2009) 2 SCC(L&S) 221
: (2009) 9 SCR 493

Hon'ble Judges: P. Sathasivam, J; Arijit Pasayat, J

Bench: Division Bench

Advocate: Lata Krishnamurthy, Ashok Kumar Singh, Naresh Kumar Gaur, Surinder Dutt Sharma, Baushri Swaraj, Joyeeta Banerjee and Anil Kumar Tandale, for the Appellant; T.S. Doabia Rekha Pandey, Sushma Srui, Manoj Swarup, T.V. George, P. Venkat Reddy and T. Anil Kumar, for the Respondent

Final Decision: Allowed

Judgement

Arijit Pasayat, J.

Writ Petition (C) No. 403 OF 2002 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 274015

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* 2001 AIR SCW 3843 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 270230 .

7. For the reasons given above Writ Petition (C) No. 403 of 2002 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 above) for delay for furnishing of verification in respect of W.P.(C) No. 403 of 2002 filed by Sr. C.Venkat Reddy and Ors. have been communicated to 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.