

Most. Ram Sundari Devi and Others Vs The Union of India and Others

Court: Patna High Court

Date of Decision: June 26, 2008

Citation: (2008) 3 PLJR 492

Hon'ble Judges: J.N. Singh, J; Barin Ghosh, J

Bench: Division Bench

Advocate: Dhananjay Kumar, for the Appellant; S.N. Pathak for the Union of India, for the Respondent

Final Decision: Dismissed

Judgement

Barin Ghosh and Jayanandan Singh, JJ.

Heard learned counsel for the parties. The applicant had applied for grant of pension under the

Swatantrata Sainik Samman Pension Scheme propounded by the Union of India in the year 1980. In terms of the scheme, a citizen of India, who

participated in the independence movement and thereby suffered at least for a period of six months was to be honoured by grant of pension. The

scheme made it explicit that it is not necessary that a person should have suffered for having been kept in jail custody in connection with a case

initiated in respect of freedom struggle but also to such person who for his involvement in the freedom struggle had to go underground. Appellant

contended that he had to go underground for his involvement in freedom movement. He contended that the same is evidenced, as is required to be

established by the applicant in terms of the rules, from the records of the case. The records of the case suggest that the same was concluded by

imposing punishment of fine of Rs. 200/-, upon conviction, It is not the case of the appellant that he was so convicted. It is his case that in

connection with the said case he had to go underground. The records of the casts do not suggest that in relation to the said case any warrant of

arrest was issued and, if issued, the same was issued against the appellant. In such circumstances, only because such a case was instituted the

appellant was required to go underground could not be established on the records at all. Principally on that ground, the writ petition of the

appellant has been dismissed. We find hardly any scope of interference in view of the facts and circumstances of the case.

2. The learned counsel for the appellant submitted that the application of the appellant was processed by the State Government and the same was

thereupon forwarded to the Central Government with recommendation. He submitted subsequent thereto the Central Government asked the

appellant to furnish his photographs. That being the position there was at least a tentative decision to accept the application of the appellant and,

accordingly, subsequent rejection of the application of the appellant is uncalled for.

3. The learned counsel for the appellant drew our attention to the language of the letter by which the Central Government asked the appellant to

furnish his photographs and submitted that the same would suggest that there was a decision of the Central Government to accept the application

of the appellant. The letter in so many words do not suggest any decision by or on behalf of the Central Government to accept the application of

the appellant at that stage. The real decision of the Government is the decision by which the application was ultimately rejected.

4. A pension in terms of the scheme can be had on the basis of the terms and conditions laid down therein. The scheme in no uncertain terms

makes it abundantly clear that in order to obtain pension thereunder on the ground the person concerned has suffered for he was compelled to go

underground must establish the said fact. In the instant case the appellant had nothing to establish that he had any occasion to go underground. We,

therefore, see no reason to interfere with the judgment and order under appeal. The appeal fails and the same is dismissed.