

**(2008) 06 PAT CK 0052**

**Patna High Court**

**Case No:** LPA No. 964 of 2000

Most. Ram Sundari Devi and  
Others

APPELLANT

Vs

The Union of India and Others

RESPONDENT

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**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

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### **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.