

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3903 of 2018

=====

Ramjee Sah Son of Late Damri Sah Resident of Village - Nawadih, Police
Station - Nokha, District - Rohtas.

... .. Petitioner/s

Versus

1. The Union of India
2. The Under Secretary, Home Department, Government of India, Freedom
Fighter-Cell, Lok Nayak Bhawan,
3. The State of Bihar through the Secretary, Home Department, Government of
Bihar, Patna.
4. The Under Secretary, Home Department, Government of Bihar, Patna.
5. The District Magistrate, Rohtas at Sasaram.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Dhaneshwar Prasad Gupta, Advocate
For the State	:	Mr.Manish Kumar, GP-4
For the UOI	:	Mr. Manoj Kumar Singh, CGC

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 16-08-2022

1. The present writ petition has been filed for quashing the letter dated 15.12.2014, whereby and whereunder the case of the petitioner for grant of Swatantra Senani Sammaan Pension (hereinafter referred to as the 'SSS Pension'), has been rejected.

It is also prayed that the petitioner be granted SSS Pension.

2. The learned counsel for the petitioner has submitted that the petitioner had participated in the freedom movement in the year 1942 for which he had remained in custody from 02.10.1942 to 02.04.1943. It is submitted that the petitioner had filed an application dated 31.07.1981 before the Secretary,



Home Department (Special), Government of Bihar for grant of freedom fighter pension and since then he has been pursuing his case for grant of SSS Freedom Fighter Pension but his case has been rejected arbitrarily by the impugned letter dated 15.12.2014.

3. Per contra, the learned counsel for the respondent nos. 1 & 2 has submitted that not all persons who took part in freedom movement in some way or the other are eligible for SSS Pension but only those are eligible for the same who fulfill the conditions of the Swatantra Sainik Samman Pension Scheme, 1980 by furnishing proof of claimed sufferings and in the manner specified in the scheme itself. It is submitted that for the purposes of grant of Samman Pension under the SSS Yojana, the requisites qua a freedom fighter are as follows:-

“a. A person who had suffered minimum imprisonment of six months in the mainland jails before independence. Ex-INA personnel are also eligible for pension if the imprisonment/detention suffered by them was outside India for six months or more. In case of women and SC/ST freedom fighters, the minimum period of actual imprisonment for eligibility is three months.

b. A person who on account of his participation in freedom struggle remained underground for six



months or more provided he was:

- i. a proclaimed offender; or*
- ii. one on whom an award for arrest/head was announced; or*
- iii. one whose detention order was issued but not served.*
- iv. Voluntary underground suffering or self-exile for party work under the command or the party leaders is not covered as eligible sufferings for pension under the Scheme.*
- c. A person who on account of participation in the freedom struggle was interned in his home or externed from his district under the orders of the competent authority for six months or more.*
- d. A person whose property was confiscated or attached or sold due to participation in the National Freedom Struggle under the orders of the competent authority.*
- e. A person who was permanently incapacitated during firing or lathi charge.*
- f. A person who lost his Government job (Central or State Government, including job in local bodies) and thus was deprived from the means of livelihood for participation in the National Freedom Struggle.*
- g. A person who was awarded the punishment of 10 strokes of caning/flogging/whipping.*

4. The learned counsel for the respondent nos. 1 & 2 has further submitted that the applicant is also required to furnish



the following documents:-

- “a. In case of imprisonment a certificate from the concerned jail authority, District Magistrate or the State Government indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release.*
- b. In case the records of the relevant period are not available with the State Government, a Non-Availability of Records Certificate (NARC) in prescribed format from the concerned State government is required along with two Co-Prisoner Certificates (CPC) from freedom fighters who had a proven jail sufferings of minimum 1 year and who were with the applicant in the jail for a minimum period of six months. In case the certifier happens to be a sitting M.P. or MLA or Ex. M.P./M.L.A., only one Co-Prisoners Certificate in place of two is required.*
- c. For claims of underground suffering, documentary evidence by way of Court's/Government's order proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention. Where records of the relevant period are not available, a Non-Availability of Records Certificate (NARC) from the concerned State Government along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail*



suffering of minimum two years and who happened to be from the same administrative unit, is required.

- d. For claims of internment or externment, orders issued by the competent authority from the official records. In the absence of official records, a Non-Availability of Records Certificate (NARC) from the concerned State Government along with a certificate from prominent freedom fighters who had themselves undergone suffering of imprisonment for two years or more.*
- e. In case of confiscation and sale of property orders of dismissal or removal from service for taking part in the National Freedom Struggle, orders of the competent authority is required.*
- f. For claims of permanent incapacitations:
 - i). Certificate from the District Magistrate stating that permanent incapacitation was done by bullet injury/lathi charge sustained during participation in the National Freedom Struggle.*
 - ii) Medical certificate from the Civil Surgeon in support of the handicap.**
- g. For claims of punishment of 10 strokes of caning/flogging/whipping, copies of orders passed by the competent authority from the official records.*
- h. For claims of martyrdom, evidence from official records or newspapers of the relevant time in*



support or killed in action or in detention etc.”

5. It is also submitted by the learned counsel for the respondent nos. 1 & 2 that freedom fighter pension can be considered to be granted by the Central Government only when the aforesaid documents and facts are duly verified and thereafter, the case of the claimants is recommended by the State Government/U.T. Administration along with the basis of such recommendation in accordance with the provisions of the scheme, however, no action is possible on the application sent directly to the Central Government without being routed through the State Government/U.T. Administration.

6. Now, coming to the present case, the learned counsel for the respondent nos. 1 & 2 has submitted that the claim of the petitioner for grant of SSS Pension was rejected by the Ministry on 07.08.1986 and 16.12.2014 respectively as the petitioner was not found eligible for grant of SSS Pension under the SSS Yojana since the petitioner failed to produce the required documentary proof as per the guidelines of the SSS Scheme. It is also submitted that the petitioner had submitted a CPC of Sri Param Gound, who had submitted his own jail suffering from 29.09.1942 to 30.06.1943, which is less than one year, hence the same cannot be considered. Another CPC, submitted by the



petitioner is that of Sh. Ram Krishna, who has stated that he himself was in different jails from 06.10.1942 to 10.10.1945, however, he has not indicated the period during which he was in jail in which the petitioner was lodged with him, thus the same is also of no consequence. The CPC submitted by the petitioner is not in accordance with Clause 2.2, sub-clause(b) of SSS Yojana, hence the same cannot be relied upon. The Ld. Counsel for the respondents has further submitted that the petitioner had submitted an affidavit on 31.08.1992 stating therein that his age is 56 years, hence the year of birth of petitioner works out to be 1936, but he claims that he was imprisoned in the year 1942, which means that he was only 6 years old at that time. It is also contended that the petitioner has enclosed an identity card (voter I card), with the present writ petition, wherein it has been mentioned that he is 60 years as on 01.01.2004. In view of the conflicting stand of the petitioner with regard to his date of birth, the State Government of Bihar had constituted a Medical Board in the year 2013 to verify the age of the petitioner and the Medical Board certified the age of petitioner to be in between 70-80 years as in the year 2013. The petitioner has mentioned different age in different documents submitted by him. It is stated that as per the medical board



certificate, the petitioner was only 9 years at the time of the freedom movement, which shows that the petitioner has tried to defraud and obtain SSS Pension by hook or crook.

7. It is also submitted by the Ld. counsel for the respondents that the claim of the petitioner was never forwarded by the State Government. It is further contended that as per the letter of the respondent-Ministry, circulated vide letter no. 8/8/2009 FF(P) dated 05.10.2009, the age of freedom fighter should be above 15 years at the time of their participation in the freedom movement, however, the age of the petitioner has been found to be 9 years at the time of his alleged participation in the freedom movement. It is also submitted that the Superintendent, Mandal Jail, Sasaram, has issued a certificate to the effect that the name of the petitioner has not been mentioned in the records of the said jail as an inmate of the said jail, hence it is submitted that incarceration of the petitioner is also doubtful. Lastly, it is submitted that since the claim of the petitioner has already been rejected way back on 07.08.1986 i.e. 36 years back, the present writ petition suffers from gross delay and laches, hence on this ground as well the writ petition is fit to be dismissed.

8. I have heard the learned counsel for the parties and gone through the materials on record from which it is apparent that



though the claim of the petitioner was rejected way back on 07.08.1986, however, the present writ petition was been filed belatedly only in the year 2018 i.e. after a lapse of about 32 years, hence this Court holds that the present writ petition suffers from gross delay and laches and is fit to be dismissed on this ground alone. Nonetheless, this Court further finds that the petitioner has not produced the documentary proof, as per the guidelines of SSS Pension Scheme, so as to make him eligible for grant of SSS Pension. Moreover, the factum of the petitioner's incarceration is also not substantiated from the jail records. Apart from the aforesaid lacunae in the case of the petitioner, this Court also finds that the State Government of Bihar had set up a medical board in the year 2013 to verify the age of the petitioner, which has certified the age of the petitioner to be in between 70-80 years in the year 2013, hence apparently, the petitioner was only 9 years at the time of the alleged freedom movement in which he had taken part, however, as per the guidelines of the respondent nos. 1 & 2, the age of freedom fighter should be above 15 years at the time of his/her participation in the freedom movement. It is also apparent that the petitioner has tried to interpolate the records and has engaged in fraudulent act inasmuch as different age has been



mentioned by him in different documents and the proof submitted by him in support thereof also contain different date of birth. In fact the respondent nos. 1 & 2 have mentioned in paragraph no.13 of the counter affidavit, filed in the present case, that the petitioner has enclosed an identity card i.e. voter I-Card with the present writ petition wherein his age has been mentioned as 60 years as on 01.01.2004 meaning thereby that he was born in the year 1944, whereas he has claimed to have been imprisoned in the year 1942, which is not possible.

9. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, this Court finds that the present writ petition is thoroughly misconceived, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	30.08.2022
Transmission Date	

