



2025:DHC:2672



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Judgment pronounced on : 17.04.2025**+ **W.P.(C) 6940/2022**

NIRMALA DEVI

.....Petitioner

Through: Mr. I. C. Mishra, Advocate along  
with Dr. Balmiki Prasad, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Vivekanand Mishra, Senior Panel  
Counsel along with Mr. Rishesh Mani  
Tripathi, Advocate for R-1, 2 and 3.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner seeking the following prayer –

*“It is, therefore, most respectfully prayed that this Hon'ble Court may kindly please to issue a writ in nature of prohibition, certiorari & mandamus or as may be appropriate with directing the respondents to grant “Swatantrata Sainik Samman & Pension” to husband of petitioner Late Jagdish Prasad & pension from the date of application i.e. 11.07.1981 to 01.12.2021 and same be extended after his death, to petitioner since 02.12.2021 alongwith future pension and all the arrears also be given to petitioner as per direction given by this Hon'ble Court in LPA No. 48/2015 dated 30.01.2015 and also take strict action against the respondents and impugned order passed by respondent No. 3 dated 20.08.2009 and 27.01.2021 or as may be quashed with above mentioned direction.”*

2. An application dated 11.07.1981 was filed by one Shri Jagdish Prasad (deceased husband of the petitioner) [hereinafter '*the applicant*'], before the



Home (Special) Department, Government of Bihar (respondent no.4), seeking to avail the benefit of pension under the '*Swatantrata Sainik Samman Pension Scheme 1980* (hereinafter '*the SSS Pension Scheme*'). The said application was filed on the basis that the applicant/petitioner is a freedom fighter who has undergone 'underground suffering' / 'remained underground' from 1942 to 1946 as a result of being declared a proclaimed offender *vide* order dated 23.09.1946 in *In re: Emperor v. Jamuna Singh & Ors* bearing GR Case no. 82/1942.

3. *Vide* communication dated 13.04.1993 sent by the respondent no.4, the applicant's case was recommended to the Under secretary, Freedom Fighter Cell, Ministry of Home Affairs, Government of India (respondent no.3) for grant of pension under the SSS pension scheme.

4. Since the petitioner's application for grant of pension under the SSS Pension Scheme remained undecided, an application under the Right to Information Act, 2005 was filed by the applicant (on 21.05.2009) seeking information as regards the status thereof. Pursuant thereto, a communication dated 12.06.2009 was sent by the respondent no.4 to the Under Secretary, Freedom Fighter Cell, Home Ministry, Government of India (respondent no.3), enquiring about the action taken by the Central Government (respondent nos.1-3) as regards the case of the applicant.

5. In response, a communication dated 20.08.2009 came to be issued by the respondent no. 3 stating that the applicant's case for grant of pension under the SSS Pension scheme had been rejected on account of the applicant failing to meet the eligibility criteria envisaged in the SSS pension scheme. The discrepancies, on account of which, the applicant's claim had been



rejected were mentioned in the aforesaid communication dated 20.08.2009 which reads as under –

“(i) He has not furnished record-based primary evidence, duly verified by the State Government, in support of his claimed underground suffering (as indicated in para 4 above).

(ii) He has not furnished a valid Non-Availability of Records Certificate (NARC) from the State Government (i.e. the competent authority), having all ingredients prescribed therefor (as indicated in para 4 above).

(iii) He has not furnished any secondary evidence, i.e. PKC (as indicated in para 4 above).

(iv) State Government has not given its specific recommendation for grant of samman pension in his case.”

6. Subsequently, the applicant is stated to have filed a fresh application/explanation dated 23.03.2010 for grant of pension under the SSS pension scheme (hereinafter ‘*the second application*’). The said application was then forwarded by the respondent no.4 to the respondent no.3 vide letter dated 03.05.2010. Thereafter, a reminder letter dated 04.09.2013 was also sent by the respondent no.4 to the respondent no.3, stating that the requisite documents as stated in the earlier letter dated 20.08.2009 issued by the respondent no.3 have been supplied along with the letter dated 03.05.2010. However, the applicant’s application was again rejected by the respondent no.3 on 20.12.2013 and the same was communicated *vide* letter dated 23.01.2014.

7. Thereafter, the applicant filed an application dated 22.04.2015, for the third time (hereinafter ‘*the third application*’). *Vide* letter dated 14.05.2015, the respondent no.4 again recommended the case of the applicant to the respondent no.3 while stating that the copies of the necessary documents had been attached with the said communication and that there was no



requirement for the respondent no.4 to provide a Non Availability of Records Certificate (NARC) inasmuch as all the records/documents pertaining to the applicant's case were available. The said communication was followed by a reminder letter dated 16.01.2018 sent by the respondent no.4.

8. Thereafter, several communications were exchanged between the respondent nos.3 and 4. Eventually, the case of the applicant was again rejected *vide* letter / communication dated 27.01.2021 sent by the respondent no.3 on the ground that it “does not merit reconsideration” inasmuch as the applicant's claim had already been considered and rejected *vide* previous communications dated 20.08.2009 and 20.12.2013 sent by the respondent no.3 and that no fresh evidentiary proof or fresh and specific recommendation, as sought for, had been received by the respondent no.3.

9. Unfortunately, the applicant – Shri Jagdish Prasad passed away on 01.12.2021. It is in this factual background that the present petition has been filed by the widow of the applicant.

10. In the present proceedings, notice was issued by this Court on 18.05.2022.

11. In the short affidavit dated 23.08.2022 filed on behalf of the respondent no.4 (State of Bihar), it is stated that while considering the third application for grant of pension under the SSS pension scheme, the respondent no.3 had sought for certain documents from the respondent no.4 *vide* letter dated 06.07.2018 which are as follows –

- “(i) Verified/certified copy of GR No.82/42 with mentioning underground suffering period of Shri Jagdish Prasad @ Jagdish Sahu.*
- (ii) Fresh specific recommendation cum entitlement report for grant of*



*SSS Pension to Shri Jagdish Prasad @ Jagdish Sahu.*

*(iii) Clarify whether Shri Jagdish Prasad @ Jagdish Sahu s/o late Shri Ayodhi Prasad, Village Station Rod, Post + Thana madhubani, District Madhubani, Bihar is alive or not.”*

12. It is the stand of the respondent no.4 (State of Bihar) that the documents sought for *vide* point (iii) and point (i) in the letter dated 06.07.2018 had been supplied by the respondent no.4 *vide* letters dated 29.10.2018 and 15.11.2018 respectively. With respect to the document/s relating to point (ii), it is stated that the respondent no.4 *vide* letter dated 31.08.2020 informed the respondent no.3 that the said document had already been supplied *vide* letter dated 13.04.1993 (for recommending the first application) sent by the respondent no.4.

13. Subsequently, however, a letter dated 29.09.2020 was issued by the respondent no.1 (Ministry of Home Affairs) stating that the documents, as sought for in the letter dated 06.07.2018, had not been received by the respondent no.1.

14. It is averred by the respondent no.4 that once again, even in response to the letter dated 29.09.2020, that the said documents had been supplied to the respondent no. 3 *vide* communication / letter dated 17.12.2020.

15. However, in the affidavit dated 18.12.2023 filed on behalf of the respondent nos.1-3, it has been highlighted that the documents received from the respondent no.4 *vide* letter dated 17.12.2020 suffer from certain inadequacies. In this regard, the following inadequacies have been mentioned -

*“(xii) That in reply to para (xii), it is humbly submitted that the letter dated 17.12.2020 was received in this Ministry however, the proper recommendation was not given by the State Govt. It is further submitted*



that the copy of the Court Record was only the certified copy of the Extracts and did not specify the underground sufferings of Shri Jagdish Prasad. If at all the State Advisory Committee's report is to be considered then the PKC submitted in claim of the underground suffering of Shri Jagdish Prasad was not acceptable due to the following reasons.

(a) In the PKC, it was indicated that Sh. Bhaguath Jha was in jail from 3.10.1942 to 17.4.1946. He certified that Sh. Jagdish Prasad was underground from August, 1942 to 1946. This shows that Sh. Bhaguath Jha was himself in jail at the time when Sh. Jagdish Prasad was claiming to have suffered underground suffering.

(b) Further the PKC certifier has not furnished his own jail suffering certificate.

(c) The signature of Sh. Bhaguath Jha is different in his own application and in PKC issued in favour of Sh. Jagdish Prasad.

(d) The PKC is not verified/attested by any officer."

16. Learned counsel for the petitioner submits that the respondent no.3 has failed to consider the applicant's case despite the applicant having satisfied the criteria for availing pension under the SSS pension scheme. He further submits that the respondent no(s). 1 to 3 shall take into account the contention of the petitioner that other persons who had also been declared as proclaimed offenders in the same case as the applicant i.e. case bearing GR No. 82/1942, have already been granted pension under the SSS pension scheme.

17. Learned counsel for the respondent nos. 1-3 submits that the denial of the benefit of pension under the SSS pension scheme to the applicant has been on account of the inadequacy of the necessary documents supplied by the respondent no.4.

18. However, learned counsel for the respondent nos. 1-3 accedes to examining the matter afresh and thereafter pass, taking into consideration all



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the necessary documents which are now available, in support of the case of the applicant for grant of SSS Pension. It is directed accordingly.

19. Additionally, respondent no.4 / Government of Bihar is also directed to provide further additional/necessary documents, if required and as may be sought by the respondent nos.1-3 in furtherance of considering the applicant's case afresh.

20. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the entitlement of the petitioner.

21. The present petition is disposed of in the above terms.

**SACHIN DATTA, J**

**APRIL 17, 2025/dn**