



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment Reserved on: 24.04.2026*

*Judgment Delivered on: 04.06.2026*

+ **LPA 143/2025**

**MRIDULA DEVI**

.....Appellant

versus

**UOI AND OTHERS**

.....Respondents

**Advocates who appeared in this case**

For the Appellant : Mr. I. C. Mishra and Dr. Balmiki Prasad, Advocates.

For the Respondents : Ms. Nidhi Banga, Senior Panel Counsel with Mr. Sandeep Choudhary, Advocate for R-1 to 3/UOI.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**JUDGMENT**

**TEJAS KARIA, J**

**INTRODUCTION**

1. This Letters Patent Appeal is filed assailing the judgment and order dated 06.08.2024 (“**Impugned Judgment**”) passed in Writ Petition being W.P.(C) 15038/2021 titled as ‘*Smt. Mridula Devi v. Union of India & Ors.*’ (“**Writ Petition**”) partly allowing the Writ Petition and order dated 22.11.2024 (“**Modification Order**”) rejecting the claim for modification of



the Impugned Judgment passed in an Application being C.M. No. 67811/2024 (“**Modification Application**”).

### **FACTUAL MATRIX**

2. The Appellant is the widow of Late Rama Nand Singh (“**R. N. Singh**”), who participated in the Quit India Movement of 1942. On 10.08.1942, a criminal case, being G.R. 572/1942 titled as *Emperor v. Sheetal Prasad Singh & Ors.* (“**G.R. 572/1942**”), was registered against R. N. Singh and his associates under the provisions of the Indian Penal Code, 1860 by the Sub-Divisional Magistrate, Madhubani, Bihar (“**SDM**”).

3. After several unsuccessful attempts by the SDM to arrest R. N. Singh during the period from 1942 to 1944, the SDM, *vide* order dated 12.03.1945, issued a proclamation and attachment under Section 82 of the Code of Criminal Procedure, 1898 (“**CrPC**”) against him. Thereafter, *vide* order dated 28.05.1945, the SDM declared R. N. Singh and his associates to be proclaimed offenders under Section 83 of the CrPC. Consequently, R. N. Singh and his associates remained underground / in hiding until December 1946.

4. Subsequently, on 25.12.1981, R. N. Singh applied for pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (“**Scheme**”), formerly known as the Freedom Fighters Pension Scheme, 1972, before Respondent No. 3, namely the Under Secretary, Freedom Fighter Division, Ministry of Home Affairs.

5. Respondent No. 4, State of Bihar, had recommended the case of R. N. Singh for grant of pension under the Scheme from Central Revenues, *vide* Letter dated 16.03.1985 addressed to the Central Government, i.e.,



Respondent Nos. 1 to 3. However, Respondent No. 3 rejected the application of R. N. Singh for pension under the Scheme through letter dated 27.01.2010 (“**Rejection Letter**”).

6. Aggrieved by the Rejection Letter, R. N. Singh filed a writ petition, being W.P.(C) 549/2010 (“**W.P. 549/2010**”), before this Court. During the pendency of W.P. 549/2010, R. N. Singh passed away on 30.01.2011, whereupon his legal representative, namely his wife Mrs. Mridula Devi, who is the Appellant in the present Appeal, was brought on record.

7. *Vide* order dated 22.08.2013 (“**2013 Order**”), the learned Single Judge dismissed W.P. 549/2010, recording that the record of the Court in G.R. 572/1942 had not been verified by the State Government and that the Personal Knowledge Certificates issued by veteran freedom fighters, Mr. Sheetal Prasad Singh and Mr. Yamuna Singh, had been rejected on the ground that no record had been filed to establish that either of them had undergone imprisonment for a minimum period of two years.

8. The Appellant challenged the 2013 Order by way of Letters Patent Appeal, being LPA 48/2015, titled as *Mridula Devi v. Union of India and Ors.*, before the Division Bench of this Court. The Division Bench, *vide* order dated 30.01.2015 (“**2015 Order**”), directed that the Central Government shall, within six weeks from 30.01.2015, make a reference to the State of Bihar stating that Annexure P-2 (the certified copy issued by the District Record Keeper in relation to G.R. 572/1942) filed with W.P. 549/2010 would be forwarded to State of Bihar for verification; the State of Bihar was further directed to undertake the necessary verification and submit its response to the Central Government within two months from



receipt of the communication. It was further directed that, if R. N. Singh were found eligible under the Scheme, pension shall be granted from the date of application, the entire arrears shall be paid to the Appellant, and her claim for pension would also be considered. The relevant extract of the 2015 Order is as follows:

*“5. We dispose of the appeal issuing a direction to the Union of India to make a reference to the State of Bihar with respect to Annexure P-2 filed along with the writ petition; certified copy thereof being with the appellant. The reference would be made to the State of Bihar. The query would be: are the contents thereof authentic. Based thereon necessary decision would be taken afresh by the Central Government.*

*6. If the Central Government wants the original of Annexure P-2 to be submitted to it, a communication shall be sent to the appellant to do needful.*

*7. The Central Government shall make a reference to the State of Bihar within six weeks from today and while making the reference annexure P-2 filed with the writ petition would be sent to the State of Bihar for verification and authentication.*

*8. The State of Bihar shall do the necessary verification and submit a response to the Central Government within two months of receipt of communication from the Central Government. Within two months thereafter the Central Government would take the necessary decision.*

*9. If the late husband of the petitioner is found entitled to the freedom fighter pension, same shall be disbursed to the appellant from the date her husband made the application. Her entitlement to receive the benefit as the widow of late Sh. Ramanand Singh would be considered in said eventuality and amount payable shall also be paid to the appellant.”*

9. The Appellant, through counsel, issued a legal notice dated 08.08.2019 (“**Legal Notice**”) seeking compliance with the 2015 Order. Respondent No. 3, *vide* letter dated 24.10.2019, replied to the Legal Notice stating that the requisite report had been received from the State Government within the stipulated time and that Respondent No. 3 would



once again pursue the matter with the State Government. Thereafter, the Central Government, *vide* letter dated 18.03.2020, stated that it had not received the verification report from State of Bihar.

10. On 21.12.2021, the Appellant filed the Writ Petition seeking compliance with the 2015 Order. During the pendency of the Writ Petition, Respondent No. 3 re-examined the Appellant's claim on the basis of the available documents and rejected the same *vide* order dated 04.11.2022 ("**2022 Order**").

11. *Vide* the Impugned Judgment, the learned Single Judge directed that the 2022 Order be set aside and further directed Respondent Nos. 1 to 3 to release the pension of R. N. Singh to the Appellant, calculated for the period from 25.12.1981 to 30.01.2011, within four weeks from 06.08.2024, together with simple interest at the rate of 6% per annum calculated from 25.12.1981 until the date of payment of the pension amount.

12. On 12.11.2024, the Appellant moved the Modification Application seeking grant of family pension in her favour with effect from 31.01.2011, as also correction of a typographical error. *Vide* the Modification Order, the learned Single Judge corrected the typographical error but observed that the prayer for grant of family pension to the Appellant from 31.01.2011 was in the nature of a review rather than a modification, and accordingly dismissed the Modification Application. The relevant extract of the Modification Order is as under:

*"1. Through this application, Petitioner pointed out that a typographical error in paragraph no. 3 of judgment dated 06th August, 2024 wherein the writ petition, W.P.(C) 549/2010, has been inadvertently mentioned as W.P.(C) 49/2010. Accordingly, it is directed that the writ petition in paragraph no. 3 shall be read as*



*W.P.(C) 549/2010.*

2. *All the other grounds urged by Petitioner, which have been styled as seeking modification/ correction of the judgment, are in the nature of seeking a review.*
3. *This Court finds no error apparent on the face of the record. If the Petitioner is aggrieved by the findings of this Court, the remedy lies in assailing the order and not by seeking a modification.*
4. *With the above direction, the application is dismissed.”*

13. Aggrieved by the Impugned Judgment and the Modification Order, the Appellant has preferred the present Appeal.

### **SUBMISSIONS ON BEHALF OF THE APPELLANT**

14. Mr. I. C. Mishra, the learned Counsel for the Appellant made the following submissions:

- 14.1. R. N. Singh, the husband of the Appellant, was found to be an eligible freedom fighter and *vide* the Impugned Judgment, was granted pension under the Scheme with effect from 25.12.1981 until the date of his demise, i.e., 30.01.2011, together with interest at the rate of 6% per annum. The said amount has since been received by the Appellant from Respondent Nos. 1 to 3. However, the allowances payable by Respondent No. 4 to the Appellant remain outstanding.
- 14.2. The learned Single Judge dismissed the Modification Application without duly examining the factual matrix and without proper consideration of the documents placed on record in support thereof.
- 14.3. The learned Single Judge, in the Impugned Judgment, referred to the revised policy guidelines governing the Scheme and extracted the relevant provisions. However, it is contended that



the revised policy guidelines dated 06.08.2014 (“**Guidelines**”) filed by Respondent No. 4 had been prepared by Respondent No. 3 but had neither been approved by the Union Cabinet nor notified by the Government of India. Therefore, the Guidelines do not possess binding legal force insofar as the Appellant is concerned, and that the Scheme continues to remain in operation and has not been de-notified.

- 14.4. *Vide* order dated 14.12.2022, the learned Single Judge imposed costs of ₹10,000/- (Rupees Ten Thousand only) upon Respondent No. 4 for failure to file the verification report in relation to G.R. 572/1942, which amount has not been paid to date.
- 14.5. The Circular dated 24.11.2005 (“**Circular**”) issued by the Ministry of Home Affairs sets out the categories of dependents eligible under the Scheme. In cases where the freedom fighter is no longer alive, the eligible dependents for grant of family pension are stated to include the widow or widower, provided he or she has not remarried; unmarried and unemployed daughters, subject to a maximum of three at a time; and the mother and father.
- 14.6. In *Smt. Savitri Devi v. Union of India and Ors.*, Neutral Citation: 2023:DHC:000807, this Court held that family pension in favour of the widow of a freedom fighter is liable to be granted under the Scheme together with arrears and applicable allowances, where warranted.



14.7. In view of the aforesaid submissions, it is prayed that the present Appeal be allowed.

**SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 1 TO 3**

15. Ms. Nidhi Banga, learned Senior Panel Counsel for Respondent Nos. 1 to 3 made the following submissions:

- 15.1. The present Appeal raises a limited question concerning the scope of derivative entitlement under the Scheme. The issue that falls for consideration before this Court is whether a dependent may claim family pension in a case where the freedom fighter was not a recognised pensioner during his lifetime and the claim is predicated upon a posthumous grant.
- 15.2. The Scheme is an honorary, recognition-based measure intended solely to acknowledge the sacrifices made by freedom fighters. It is neither a statutory pension governed by the principles of service jurisprudence, nor does it possess the attributes of an enforceable service entitlement.
- 15.3. The Scheme operates strictly within the confines of the eligibility criteria and verification process prescribed thereunder, and any claim thereto must arise and be adjudicated exclusively in accordance with the Scheme and the guidelines governing it.
- 15.4. The Scheme expressly distinguishes between the pension payable to a freedom fighter and the family pension payable to his or her dependents. Family pension is not an independent right; rather, it is derivative in nature and accrues only where



the freedom fighter was a validly recognised pensioner during his or her lifetime. The Scheme, therefore, contemplates the continuation of an existing entitlement and not the origination of a new one after the death of the freedom fighter.

- 15.5. The Union of India issued the Guidelines to regulate the grant of pension under the Scheme and to prevent misuse in its disbursement. The Guidelines specifically provide that “*no pension shall be sanctioned in the name of a freedom fighter after his/her death*” and that dependent family pension arises only where the freedom fighter was a recognised pensioner during his or her lifetime.
- 15.6. The Guidelines, thus, prohibit the belated origination of pension and restrict derivative claims in the absence of a valid pension during the lifetime of the freedom fighter.
- 15.7. In the present case, even assuming that the claim of the freedom fighter came to be decided in his favour, it never crystallised into a valid and recognised pension during his lifetime. Any recognition of the claim, therefore, operated only up to the date of his demise and not beyond. Since the foundational requirement, namely that the freedom fighter must have been a recognised pensioner during his lifetime, remains unsatisfied, the very basis for a derivative claim is absent. Consequently, no family pension or derivative entitlement can lawfully accrue in favour of the dependent.



- 15.8. It is a settled principle of law that, even where a benefit has been granted in a particular case, the same cannot be extended if it is contrary to the governing scheme. In *State of Orissa v. Mamata Mohanty*, (2011) 3 SCC 436, the Supreme Court held that illegality or irregularity cannot be perpetuated. The Scheme mandates the existence of a recognised pensioner during his or her lifetime, and in the absence thereof, no derivative right can accrue.
- 15.9. Respondent Nos. 1 to 3 relied upon the following judgments in support of the above submissions:
- i. The Guidelines are valid executive instructions as recognized in *Ram Jawaya Kapur v. State of Punjab*, AIR 1955 SC 549, and do not require legislative enactment.
  - ii. In *BALCO Employees' Union v. Union of India*, (2002) 2 SCC 333, the Court held that the policy decisions of the Government are subject to limited judicial review.
  - iii. In *Mukund Lal Bhandari v. Union of India*, (1993) Supp (3) SCC 2, the Court held that though the Scheme is beneficial, eligibility conditions must be satisfied.
  - iv. In *Gurdial Singh v. Union of India*, (2001) 8 SCC 8, the Court held that liberal interpretation cannot override basic eligibility requirements.
- 15.10. Accordingly, it was prayed that the present Appeal be dismissed.



## **ANALYSIS AND FINDINGS**

16. We have heard learned Counsel for the Appellant and learned Senior Panel Counsel for Respondent Nos. 1 to 3 and have perused the material placed on record. The principal question that arises for consideration is whether the Appellant, being the widow of R. N. Singh, is entitled to family pension under the Scheme with effect from 31.01.2011, together with arrears and interest.

17. It is not in dispute that R. N. Singh was found to be an eligible freedom fighter under the Scheme. Such finding was returned in the Impugned Judgment and has not been assailed by Respondent Nos. 1 to 3. The pension payable to R. N. Singh for the period from 25.12.1981 to 30.01.2011, together with interest at the rate of 6% per annum, has already been disbursed to the Appellant. The sole surviving issue, therefore, is whether the Appellant, as his widow, is entitled to family pension with effect from 31.01.2011, together with arrears, interest, and future payments in accordance with law.

18. Respondent Nos. 1 to 3 rest their case entirely on the Guidelines, which provide that no pension shall be sanctioned in the name of a freedom fighter after his death and that no family pension shall consequently follow.

19. R. N. Singh applied for pension under the Scheme on 25.12.1981 and passed away on 30.01.2011. Both events occurred several years before the Guidelines were brought into existence. It is a settled principle that executive instructions operate prospectively from the date on which they are issued. They cannot be given retrospective effect to extinguish a right that had already accrued prior to their issuance. The Guidelines are, in their true



character, instruments that regulate the procedure and modalities for disbursement of pension under the Scheme. They do not purport to, nor can they lawfully, extinguish a substantive right that came into existence independently of them and prior to their making. To permit the Guidelines to operate in that manner would be to give executive instructions a reach that the law does not permit.

20. In any event, the Guidelines were never intended to divest benefits already available under the Scheme. This Court has considered the purpose of the Guidelines in *Union of India v. Kollu Uday Kumari*, Neutral Citation: 2023:DHC:408-DB, wherein it was held that the Guidelines were issued only to clarify the Scheme and not to alter its substantive content. Although that decision arose in a different factual setting, the principle enunciated therein applies with equal force in the present case. If the Guidelines are merely clarificatory, they cannot be construed so as to introduce a fresh disqualification or curtail a benefit expressly available under the Scheme. To read the Guidelines in the manner suggested by Respondent Nos. 1 to 3 would, in effect, permit a clarification to override the very Scheme it was intended to explain, which is plainly impermissible.

21. We are also unable to accept the submission that the right of R. N. Singh never crystallised. The said contention conflates the existence of a right with the formal act of its recognition. The Impugned Judgment records a finding that R. N. Singh was an eligible freedom fighter and directs that pension be paid to him with effect from 25.12.1981. At the cost of repetition, we may observe that the Impugned Judgment has not been challenged by the Respondents. Right of R.N. Singh, therefore, stood vested



from that 25.12.1981, which was during his lifetime. What remained wanting was only the formal sanction. Such sanction was not issued owing to the conduct of the Respondents themselves, including the repeated failure of Respondent No. 4 to furnish the verification report, notwithstanding repeated reminders and even an order imposing costs upon Respondent No. 4 by this Court *vide* order dated 14.12.2022.

22. It is a well-settled principle that a party cannot be deprived of a vested right on account of delay occasioned by the very authority that opposed the claim. To hold otherwise would amount to permitting the Respondents to derive advantage from their own default.

23. The nature and object of the Scheme must also be kept in view. The Scheme embodies the nation's gratitude towards those who endured suffering and made sacrifices in the cause of India's freedom, and towards their families. A beneficial measure of this character must receive an interpretation that advances its object and effectuates its purpose. In the facts of the present case, the sole reason for the absence of formal sanction in favour of R. N. Singh was the delay attributable to the Respondents themselves. To deny the Appellant her entitlement on that basis would be to allow the Respondents to benefit from their own default and would render the beneficent purpose of the Scheme nugatory.

24. The status of the Appellant as a dependent is not in doubt. The Circular, as well as the Scheme itself, recognises the widow of a freedom fighter as an eligible dependent for family pension after his death, provided she has not remarried. The Appellant is the widow of R. N. Singh, and there is nothing on record to indicate that she has remarried. She, therefore,



clearly falls within the class of persons eligible to receive family pension under the Scheme.

25. The authorities cited on behalf of Respondent Nos. 1 to 3 do not advance their case. *Ram Jawaya Kapur (supra)* and *BALCO Employees' Union (supra)* merely affirm the validity of executive instructions and the limited scope of judicial review over policy decisions; neither decision supports retrospective application of the Guidelines to defeat an accrued claim. The decisions in *Mukund Lal Bhandari (supra)* and *Gurdial Singh (supra)* require satisfaction of basic eligibility conditions, which, in the present case, stood fulfilled by R. N. Singh. Those decisions also affirm that the Scheme ought to receive a liberal construction on the standard of preponderance of probabilities. As regards *Mamata Mohanty (supra)*, the principle that illegality cannot be perpetuated has no application to the present case. The grant of family pension to the Appellant is not contrary to law. Rather, it is in consonance with the Scheme itself.

26. The decision in *Smt. Savitri Devi (supra)* holds that the widow of a freedom fighter is entitled to family pension under the Scheme, together with arrears and applicable allowances. The facts of the said decision are, in material respects, analogous to those obtaining in the present case.

27. We may also note that the learned Single Judge dismissed the Modification Application solely on the ground that the relief sought was in the nature of a review rather than a modification. The issue of the Appellant's entitlement to family pension was, therefore, not adjudicated on merits by the learned Single Judge.



28. In view of the foregoing discussion, we hold that the Appellant, being the widow of R. N. Singh, is entitled to family pension under the Scheme with effect from 31.01.2011, together with arrears and interest, to continue during her lifetime or until her remarriage, whichever occurs earlier. The Modification Order, to the extent it declines the said relief, cannot be sustained and is accordingly set aside.

29. Accordingly, the Appeal is allowed, and Respondent Nos. 1 to 3 are directed to sanction and release family pension to the Appellant with effect from 31.01.2011, together with all consequential arrears, and to continue payment thereof during her lifetime or until her remarriage, whichever occurs earlier. The arrears shall carry simple interest at the rate of 6% per annum, computed from the date each instalment fell due until the date of actual payment, consistent with the interest already awarded on the pension payable to R. N. Singh. The payment of arrears will be made to the Appellant within a period of eight weeks from the date of this Judgement and payment of family pension shall commence forthwith.

30. Respondent No. 4 shall pay the costs of ₹10,000/- (Rupees Ten Thousand only) as directed by order dated 14.12.2022 passed by the learned Single Judge in the Writ Petition. If the said amount of cost is not remitted to the Appellant within eight weeks, Respondent No. 4 shall pay enhanced costs of ₹25,000/- (Rupees Twenty Five Thousand only).

31. The Appeal stands disposed of with the above directions.

**TEJAS KARIA, J**

**DEVENDRA KUMAR UPADHYAYA, CJ**

**JUNE 4, 2026/ 'N'**