



LPA No.102 of 2017 a/w
LPA No.96 of 2017

Decided on: 03.09.2025

1. LPA No.102 of 2017
Union of India ...Appellant

Versus

Mahanti Devi and anotherRespondents

AND

2. LPA No.96 of 2017
State of Himachal Pradesh ...Appellant

Versus

Mahanti Devi and anotherRespondents

Coram
Hon’ble Mr. Justice G.S. Sandhawalia, Chief Justice
Hon’ble Mr. Justice Ranjan Sharma, Judge

¹ Whether approved for reporting?. Yes.

For the appellant(s): Mr. Balram Sharma, Deputy Solicitor General of India [Senior Advocate] with Mr. Rajeev Sharma, Advocate, for the appellant in LPA No.102 of 2017.

Mr. Gobind Korla, Additional Advocate General, for the appellant in LPA No.96 of 2017.

For the respondents: Ms. Vandana Kuthiala and Mr. Devi Singh, Advocates, for respondent No.1 in LPA No.102 of 2017.

Mr. Gobind Korla, Additional Advocate General, for respondent No.2-State in LPA No.102 of 2017.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

Ms. Vandana Kuthiala and Mr. Devi Singh, Advocates, for respondent No.1 in LPA No.96 of 2017.

Mr. Balram Sharma, Deputy Solicitor General of India [Senior Advocate] with Mr. Rajeev Sharma, Advocate, for respondent No.2-UI in LPA No.96 of 2017.

G.S. Sandhawalia, Chief Justice *[Oral]*

The present appeals by the Union of India & State of Himachal Pradesh, have been preferred against the judgment dated 02.01.2017 passed by the learned Single Judge in CWP No.10620 of 2021, titled Mahanti Devi Versus Union of India & Anr. filed by the widow of the Freedom Fighter, who is asking for pension under the *Swatantrata Sainik* Pension Scheme, 1980 from the date of her application and had challenged the rejection order dated 11.04.2007 *[Annexure PK in the writ file]* and prayed for payment of arrears of pension alongwith interest @12% and had also asked the State to decide her application within a period of three months as per law laid down in **Mukand Lal Bhandari Vs. Union of India, AIR 1993, SC 2127.**

2. Learned Single Judge allowed the writ petition and directed that the financial assistance be granted under the updated Scheme i.e. "Scheme for the Grant of Financial Assistance by the Government

of Himachal Pradesh to the Freedom Fighters of Himachal Pradesh” w.e.f. 01.01.2012, which is the date of knowledge. Resultantly directions were issued to grant pension both under the Central Scheme and State Scheme and the findings were recorded that there was no material to show that the husband of the petitioner, namely, Teg Singh had not undergone sufferings because of his externment and other affidavits of the Freedom Fighters.

3. Apparently, in spite of lament expressed by the Apex Court in **Mukand Lal Bhandari’s** case regarding the high objective of the Scheme keeping in view the fact that it was introduced to give benefits to Freedom Fighters to honour and mitigate the sufferings of those who had given their all for the country. The State and the Union of India still continue to litigate and have objected to the directions issued by the learned Single Judge.

4. In **Gurdial Singh Versus Union of India & Others, (2001) 8 SCC 8**, it was noticed that a liberal and not a technical approach is required to be followed while determining the merits of the case of a person seeking pension under the Scheme and it was on the basis of evidence that is probalised and a presumption is required to be drawn in his favour unless the same is rebutted by cogent, reasonable and reliable evidence. The

hypertechnical approach was thus castigated while granting the relief of pension both by the State of Punjab and the Union of India which had been rejected in the said case on the ground that discrepancies and contradictions regarding the fact of joining Indian National Army in September, 1942, were found, inspite of the fact that an original driving licence issued at Bangkok had been relied upon by holding that getting the record from a Foreign country is very cumbersome and expensive process.

5. The perusal of the order of rejectment dated 11.04.2007 which came to be passed by the respondents [Annexure PK], which was in pursuance of an earlier direction to consider the case in Civil Writ Petition No.374 of 2000, decided on 02.01.2006

6. Thus, the reasoning given to reject the said claim which was to be considered in view of the law laid down in **Mukand Lal Bhandari's** case are as under:-

- “(i) *He has not furnished any acceptable evidence duly verified by the State Government, in support of his claimed suffering of externment (as indicated in para 2 above).*
- (ii) *He has not furnished a valid Non-availability of Records Certificate (NARC) from the State Government (i.e., the competent authority) containing all ingredients prescribed therefor (as indicated in para 2 above).*
- (iii) *In the absence of valid NARC, secondary evidence, i.e. Personal Knowledge Certificates (PKCs) cannot be considered and are not acceptable. The PKC submitted by him from*

Shri Sant Ram, Advocate, Former Home Minister-cum-Superintendent of Police, Bilaspur State, has however been scrutinized. The same is not acceptable as the certifier has not furnished any record/evidence of his own duration of suffering in connection with freedom movement (i.e., he has furnished no evidence to establish that he is an eligible certifier).

- (iv) *The State Government vide its report dated 26.8.1996 has stated that on examination of reports, it was found that there is no indication of the participation of Shri Teg Singh in the Praja Mandal Movement. Thus, the report of the State Government is not positive."*

7. A perusal of the above Guidelines would go on to show that the acceptable evidence duly verified by the State Government in support of his/her claim, suffering of externment (as indicated in Para 2) talks about the Certifier Veteran Freedom Fighter in respect of externment and the applicant should belong to the same Administrative Unit before the reorganization of States and their area of operation must be the same. As per the 1972 Scheme as modified in 1980, the eligible dependents are not only the widower/widow if he/she has not re-married apart from mother, father and un-married daughters. The claims have to be proved as per Clause 9(c) of *Swatantrata Sainik Samman Pension Scheme, 1980 [Formerly known as Freedom Fighters' Pension Scheme, 1972]*, in the case of externment. Clauses 3 and 9 of the above Scheme of 1980 read as under:-

“3. WHO ARE ELIGIBLE DEPENDENTS:

For the purpose of grant of Samman pension, family includes (if the freedom fighter is not alive) mother, father, widower/widow if he/she has not since remarried, unmarried daughters.

Not more than one eligible dependent can be granted pension and in the event of availability of more than one dependent the sequence of eligibility will be widow/widower, unmarried daughters, mother and father.”

9. HOW TO PROVE THE CLAIMS (EVIDENCE REQUIRED)

The applicant should furnish the documents indicated below whichever is applicable:-

(a) IMPRISONMENT/DETENTION ETC.

Certificate from the concerned jail authorities, District Magistrates or the State Government in case of non-availability of such certificates co-prisoner certificates from a sitting MP or MLA or Ex-MP or ex-MLA specifying the jail period (Annexure-I in the application form.)

(b) REMAINED UNDERGROUND:

(i) *Documentary evidence by way of Court's/ Government orders proclaiming the applicant as an offender, announcing an award on his head, or for his arrest or ordering his detention.*

(ii) *Certificates from veteran freedom fighters who had themselves undergone imprisonment for five years or more if the official records are not forthcoming due to their non-availability.*

(c) INTERNMENT OR EXTERNMENT

(i) *Order of internment or externment corroboratory documentary evidence.*

(ii) *Certificates from prominent freedom fighters who had themselves undergone imprisonment for five years or more if the official records are not available. (Annexure-II in the application.)*

Note:-

The Certifier veteran freedom fighters in respect of underground suffering, internment/ externment and the applicant should belong to

the same administrative unit before the reorganization of States and their area of operation must be the same."

8. A close reading of Clause 9(c) (i) would go on to show that in order to prove the claim, documents which would be required are either an order of internment or externment of any documentary evidence. It is not disputed that the claim had been given in the form of certificate by person who was not less than the former Home Minister and the sitting Superintendent of Police, apart from being an Advocate and an active Member of the *Praja Mandal* Movement of Bilaspur State. The certificate dated 19.08.1975, reads as under:-

"CERTIFICATE:

Certified that I know Shir Teg Singh son of Shri Malagar resident of Nog Pargana Sadar Tehsil and district Bilaspur. He was an active member of the Praja Mandal movement Bilaspur State and had participated in the Jatha that had to be intercepted at the Bhagwani bridge on the Sutlej river and sent out of the State on 22-10-1946.

*Sd/-
(Sant Ram)
ADVOCATE
Former Home Minister
Cum Superintendent of Police
Bilaspur State.*

Dt. 19-8-1975."

9. In our considered opinion, the said certificate itself was sufficient to bring it within the parameters of other corroboratory documentary evidence as per terms of the Scheme itself. The order of rejection has noticed this

fact, but rejected the claim only on the ground that Certifier had not furnished any record/evidence of his own duration of suffering in connection with Freedom Movement and the State Government's adverse report dated 26.08.1996 had not supported the case.

10. The wife of the deceased Freedom Fighter had appended alongwith her writ petition not only the affidavit of Teg Singh that he remained under externment since 1946 to 1948 and could only enter the State when the same acceded to Indian Union on 12.10.1948, but alongwith that she also submitted a Personal Knowledge Certificate of Narottam Dutt Shashtri [Annexure PE], who was lodged in the externment Jail in Bilaspur District for the period of from 1946 to 1948 and certified that Teg Singh resident of Village Nog, Post Office Banota, Tehsil Sadar, District Bilaspur, was in externment from 1946 to 1948 for more than a period of six months as required.

11. Similar certificate from Ganga Ram [Annexure PF] to the same extent of verifying the externment period was also appended alongwith one Jai Ram's certificate, who themselves were recipients of Central Scheme and the details had also been mentioned. Apparently, all these factors were never considered in the right perspective while passing the impugned order

dated 11.04.2007 by the Union of India in the form of substantial corroboratory documents available on record.

12. The Union of India had gone to reject the claim for the reasons which are not sustainable inspite of law which has time and again reminded them of their obligations and their pronouncements for the faith of the Freedom Fighters. However, on the ground a different bureaucratic mindset is engrained so deep that it is hard for them to shake-off and realise that the benefits they are receiving while holding such offices, are only on account of the fact that the Freedom Fighters are responsible for their State of Affairs at this present point of time.

13. The learned Single Judge has carefully scrutinized the details of the litigation and the fact that Teg Ram was agitating for his grievances and applied way back on 22.08.1975 after the issuance of the certificate from the Home Minister on 19.08.1975. On two occasions directions had been issued in his case to consider his application firstly on 28.10.1996 and thereafter on 02.01.2006, which eventually led to rejection, vide order dated 11.04.2007.

14. It is not disputed that Teg Ram died on 23.01.2008 after passing of the order and therefore his

widow, as such, is trying to get the benefits, who herself is stated to be in her 80's at the time when the writ petition was allowed on 02.01.2017.

15. Learned Single Judge, therefore, has rightly rejected the stand of the respondents that there was delay and laches and has protected the interest, as such, of the respondents by granting benefit only from 01.01.2012, when the State got knowledge of filing of the writ petition, while falling back on Clause 2(i) of the State Scheme which also grants eligibility in the same format, as such, as to the widow, if she was not re-married. It has also been held by the learned Single Judge that the widow cannot be expected to produce evidence at this tangential stage to prove her case beyond all reasonable doubts and it is a beneficial legislation while granting the said relief.

16. The reliance has been placed by the Union of India on ***Civil Appeal No.909 of 2022 [arising out of SLP (C) No.9624 of 2020], titled as Union of India Versus Krishna Modi & Anr.***, decided on 03.02.2022, which would not take the Union of India a long way since that was the case where person was about 12 years of age when he claimed to be underground during the Freedom Movement of 1942 and it was in these

circumstances, it was held that in the absence of detention order and merely on the basis of certificates issued by certain Freedom Fighters, who were themselves in jail during the period when they certified that the said person remained underground, the benefit was not liable to be granted. The claim had only been made in the year 1982 in the said case, whereas as noticed, the certificate in the present case was issued on 19.08.1975 and immediately an application was filed on 22.08.1975. The said judgment would be of no assistance, as such, for Union of India.

17. Counsel for Union of India has objected to the affidavits appended alongwith the writ petition by way of secondary nature of evidence and, therefore, he has placed reliance upon the judgment of Apex Court in ***Civil Appeal No.783 of 2007, titled as Union of India & Anr. Versus Kaushalaya Devi***, decided on 15.02.2007.

Reading of the judgment would go on to show that the issue was only regarding grant of pension from which date and not from the date of application and the appeal has been allowed by restricting the claim from the date of order of granting the pension.

18. In the present case, as noticed, the claim has totally been rejected on untenable reasons inspite of the fact that there was a certificate of a person who

himself had participated in the said movement and also holding a responsible post of Home Minister and then also being a Superintendent of Police, in a small State of Bilaspur. Therefore, we do not find any valid reasons to interfere with the well-reasoned order passed by the learned Single Judge keeping in view the purpose of Scheme, as already highlighted.

19. The objection of the State that they had only applied in 2011 that would not help the State keeping in view the law laid down by the Apex Court that benefit had not been given from the date of application or modified from the date of judgment, whereas the benefit has been given from the date of knowledge and the interest of State has also been protected.

20. Keeping in view the interim order dated 09.10.2017, the arrears of the monetary benefits under the *Swatantrata Sainani Samman* Pension Scheme, 1980, could not be disbursed to the writ petitioner w.e.f. 01.01.2012, thus the arrears be made good as per the impugned judgment within two months from today. In case the amount is not paid within the period of two months, the same will carry penal interest at the rate of 8% per annum on the arrears.

21. Accordingly, the both these appeals are

dismissed.

22. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Ranjan Sharma)
Judge

September 03, 2025

[Bhardwaj/ Shivender]