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ITEM NO.36

COURT NO.4

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9716/2012

(From the judgement and order dated 09/12/2011 in LPA No.1069/2011 of The HIGH COURT OF PATNA)

RAM PRAVESH PANDEY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With prayer for interim relief and office report )

Date: 05/11/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Dhruv Mehta, Sr. Adv.  
Mrs. Priya Puri, Adv.  
Mr. Sagar Singhal, Adv.  
Mr. A. Dev, Adv.

For Respondent(s) Mr. Paras Kuhad, ASG  
Ms. V. Mohana, Adv.  
Ms. Varuna Bhandari, Adv.  
Ms. Mrinmayee Sahu, Adv.

Mr. Manish Kumar, Adv.

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against order dated 9.12.2011 of the Patna High Court dismissing the writ petition filed by the petitioner for grant of pension under Swatanarta Sainik Samman Pension Scheme, 1972 (for short, 'the 1972 Scheme').

The petitioner's claim for grant of pension was provisionally accepted by the Central Government vide memo dated 17.11.1975 and he was paid pension from 1975 to 1980. Vide Memo dated 5.4.1980, the Central Government suspended the payment of pension to the petitioner on the premise that an enquiry was being made into the allegation that he had not suffered imprisonment for seven months and the documents produced by him were not genuine. After considering the reply of the petitioner, the Central Government passed an order dated 16.4.1990 and cancelled the sanction issued in favour of the petitioner. Simultaneously, a case was registered against him under Sections 467, 468, 419, 420, 471 and 120B, IPC.

C.W.J.C. No. 1864 of 1995 filed by the petitioner for quashing order dated 16.4.1990 was dismissed by the learned Single Judge of the Patna High Court on the ground of unexplained delay of five years. However, liberty was given to the petitioner to approach the concerned authority for redressal of his grievance. The representation made by the petitioner for revival of pension was rejected by the Central Government vide letter dated 19.6.1996 on the ground that he had not produced the certificate to show that he had

suffered imprisonment for six months.

The petitioner did not challenge the dismissal of C.W.J.C. No. 1864 of 1995 by filing an appeal, but filed another petition which came to be registered as C.W.J.C. No. 9210 of 2000 and prayed for restoration of the pension. When that petition was taken up for hearing, a prayer was made on behalf of the petitioner for withdrawal of the same, which was duly granted by the High Court.

In the criminal case registered against him, the petitioner was acquitted by Judicial Magistrate, First Class, Bhojpur, Ara vide judgment dated 7.6.2008. Thereafter, he filed C.W.J.C. No. 5728 of 2009 for restoration of pension. The learned Single Judge dismissed the third writ petition by recording the following observations:

"The Court is satisfied that the order of cancellation dated 16.04.1990 achieved finality with the dismissal of CWJC No.1864/1995. The petitioner was not "produced" from representing before the authorities. It was not a liberty granted overriding the order of dismissal. The words "produced" only means not prevented.

The dismissal of CWJC No. 9210 of 2000 confirmed the repeat rejection of his claim on 19.06.1996. Thus, it was not on one occasion, but on two successive occasions that the petitioner was unable to persuade the Court to interfere.

If the petitioner was aggrieved by the reluctance of the Court to interfere, he should have challenged the order in CWJC No. 1864/1995 on merits when the Court declined interference in writ jurisdiction. This opportunity was again available to him on 15.09.2000 when CWJC No.1920 of 2000 was withdrawn. The petitioner by his own conduct allowed matters to attain finality. He cannot be permitted to keep filing repeated representations after issues have attained finality in a Court of Law and based on any fresh orders on such representations seek to found a fresh cause of action.

Litigation has to be allowed to achieve finality. The respondents cannot be repeatedly vexed on the same issue especially when issues have attained finality not once but twice insofar as a Court of law is concerned."

L.P.A. No.1069 of 2011 filed by the petitioner was dismissed by the Division Bench of the High Court, which expressed its agreement with the learned Single Judge.

Shri Dhruv Mehta, learned senior counsel argued that in view of the petitioner's acquittal in the criminal case, the allegation that he had produced forged documents for securing pension under the 1972 Scheme does not survive and he is entitled to restoration of pension as of right. Shri Mehta submitted that even though the first writ petition filed by the petitioner was dismissed on the ground of delay and the second writ petition was dismissed as withdrawn, this Court can exercise power under Article 142 of the Constitution and restore pension to the petitioner, who is now 90 years old.

Though somewhat appealing, we are not inclined to entertain the submission of the learned senior counsel because that would amount to giving a go-bye to the principle of finality of orders and open flood gate for such petitions.

In our view, the reason assigned by the High Court for refusing to entertain the petitioner's prayer for issue of a mandamus to restore the freedom fighter's pension is legally sound and the impugned order does not suffer from any legal infirmity warranting

interference under Article 136 of the Constitution.  
The special leave petition is accordingly dismissed.

| (Parveen Kr.Chawla)  
| Court Master  
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| | (Phoolan Wati Arora)  
| | Court Master  
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