IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

WRIT PETITION No.405 OF 2023 (GM – RES)

BETWEEN:

SRI H.NAGABHUSHANA RAO
AGED ABOUT 101 YEARS
S/O SRI VENKATARAMANAIAH
RESIDING AT NO. 44/7
15TH CROSS, MALLESHWARAM
BENGALURU – 560 003.

... PETITIONER

(BY SMT.VEENA J.KAMATH, ADVOCATE)

AND:

1 . THE UNDER SECRETARY
FFR DIVISION - WZ SECTION
MINISTRY OF HOME AFFAIRS/
GRIH MANTRALAYA
2ND FLOOR, NDCC-II
JAISINGH ROAD,
PARLIAMENT STREET
NEW DELHI – 110 001.

2 . CANARA BANK, SHESHADRIPURAM BRANCH
SYNDICATE BANK (NOW CANARA BANK)
P.B. NO.2047, 179
ROOPA COMPLEX
I MAIN, SESHADRIPURAM

SESHADRIPURAM S.O
BENGALURU – 560 020
REPRESENTED BY ITS
BRANCH MANAGER.

3 . CHIEF MANAGER
SYNDICATE BANK (NOW CANARA BANK)
CPPC, HEAD OFFICE
MANIPAL – 576 104.

4 . CANARA BANK
112, J.C. ROAD,
HEAD OFFICE
BENGALURU – 560 002
KARNATAKA, INDIA.

5 . THE UNDER SECRETARY
GOVERNMENT OF KARNATAKA
SECRETARIAT, DPAR
(AR POLITICAL GAURAVA DHANA (PENSION)-1)
6TH FLOOR, 1ST STAGE
M.S. BUILDING
BENGALURU -- 560 001.

... RESPONDENTS

(BY SRI SHANTHI BHUSHAN, DSGI FOR R1;
SMT.B.G.NAYANA TARA, ADVOCATE FOR R2 TO R4;
SRI M.VINOD KUMAR, AGA FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R1 TO PAY RS.3,71,280/- ALONG WITH INTEREST TO THE PETITIONER, BEING THE ARREARS OF PETITIONER'S CENTRAL GAURAVA DHANA OR IN THE ALTERNATIVE; DIRECT THE RESPONDENTS TO JOINTLY AND / OR SEVERALLY PAY THE ARREARS OF THE PETITIONER'S CENTRAL GAURAVA DHANA (PENSION) OF RS.3,71,280/- IN A TIME BOUND MANNER AND AWARD COSTS AGAINST THE RESPONDENTS IN

FAVOR OF THE PETITIONER FOR CAUSING LOSS AND INCONVENIENCE TO THE PETITIONER.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 14.02.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner, a centenarian, now 102 years, is knocking at the doors of this Court seeking a direction by issuance of a writ in the nature of *mandamus* directing the 1st respondent to pay the petitioner ₹3,71,280/- along with interest being the arrears of petitioner's Central Gaurava Dhana to be jointly and severally paid by the respondents within a time frame.

2. Facts adumbrated are as follows:-

The petitioner, who is now 102 years old, was a recipient of Swatantra Sainik Samman Gaurava Dhana (Pension) ('Pension' for short) being a freedom fighter from 1974 from Government of India. This nonorary pension was granted to the petitioner by both the Central and the State Governments respectively. The petitioner maintains an account at the 4th respondent/Canara Bank to which account monthly pension of the petitioner gets credited.

3. On 01-11-2017 the pension of the petitioner was abruptly stopped. When enquired about the reason for such stoppage, it was indicated to the petitioner that he had not submitted his Life Certificate for the year 2017-2018 and later he submitted the Life Certificate on 24-12-2018. The Government issued sanction letter belatedly releasing pension for the period from 24-12-2018 to 05-10-2020. However, the arrears of pension between 01-11-2017 to 24-12-2018 were not paid, which amounted to ₹3,71,280/-. When the amount was not received, the petitioner knocked at the doors of this Court in Writ Petition No.7813 of 2020 seeking a writ of mandamus to the respondents for release of arrears of pension and this Court by its order dated 24-06-2020 directed the respondents to take appropriate action within two weeks. When nothing came about, the petitioner moved this Court in C.C.C.No.449 of 2020, pursuant to which, the 1st respondent issued a sanction letter dated 05-10-2020. However, pension for the period from 01-11-2017 to 24-12-2018 was not released on the specious plea that the petitioner had not submitted Life Certificate. Again the petitioner knocked at the doors of this court in Writ Petition No.22468 of 2021 for release of pension for the aforesaid period. This Court in terms

of its order dated 10-06-2022 considering the purport of guidelines for grant of such pension allowed the petition in part and directed the 4th respondent therein, Government of India to take appropriate decision in terms of the Scheme for disbursement of pension after assessing entitlement of the petitioner. Pursuant to the order passed by this Court and claiming to be considering the grievance of the petitioner, a communication comes to be issued on 13-09-2022 directing that the petitioner is not entitled to the arrears for the solitary reason that the petitioner did not submit a Life Certificate in November, 2017. It is this communication dated 13-09-2022 that leads the petitioner to this court in the subject petition.

4. Heard Smt. Veena J. Kamath, learned counsel appearing for the petitioner, Sri Shanthi Bhushan, learned Deputy Solicitor General of India appearing for respondent No.1 and Smt. B.G.Nayana Tara, learned counsel appearing for respondents 2 to 4 and Sri M.Vinod Kumar, learned Additional Government Advocate appearing for respondent No.5.

5. The learned counsel appearing for the petitioner would contend with vehemence that the petitioner due to his old age and other problems was not in a position to visit the Bank and submit the Life Certificate in 2018 for the period from 01-11-2017 to 24-12-2018. Due to non-submission of Life Certificate pension is not paid for close to 13 months. The petitioner being the recipient of pension under the Scheme is not in dispute. The only reason rendered is non-submission of Life Certificate, for which the petitioner is not responsible but the officials of the Bank in terms of guidelines had to get certificate from the hands of the petitioner. She seeks a direction for release of the said amount.

6. The learned Deputy Solicitor General of India representing the 1st respondent/Union of India would vehemently refute the submissions to contend that the Central Government is no way responsible for deduction or non-payment of pension and non-submission of Life Certificate would automatically stall pension. Therefore, submission of Life Certificate to the Bank and such entry being made by the Bank is imperative. If at all someone is responsible, it is the Bank officials and not the Union of India.

7. The learned counsel appearing for the respondents/Bank has filed elaborate statement of objections raising certain technical pleas – that the communication is not called in question and the judgment of the Apex Court in the case of ***UNION OF INDIA v. A. ALAGAM PERUMAL KONE***[1] clearly holds that Life Certificate has to be submitted by the freedom fighter under the Scheme and further contends that there is no duty of the Bank officials to go and collect the Life Certificate in every case where it is not given and therefore, seeks dismissal of the petition contending that the action of the Bank is in tune with law.

8. In reply, the learned counsel for the petitioner would contend that the judgment in the case of ***A.ALAGAM PERUMAL KONE*** *(supra)* was with regard to the petitioner therein was eligible to get pension or otherwise. While considering eligibility, the Apex Court also notices a submission of Life Certificate being imperative for grant of pension. In the case at hand, there is no dispute with regard to eligibility. She would contend that in W.P.No.22468 of 2021 filed by the petitioner for the very same relief, a co-ordinate

[1] ***(2021) 4 SCC 535***

Bench of this Court has considered all the issues that are now sought to be re-agitated by the Union of India or the Bank and the order having become final, it would not lie with the Union of India or the respondents/ Bank to contend otherwise. The only issue now is whether non-submission of Life Certificate in the peculiar facts of this Court would lead to non-payment of pension.

9. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

10. The afore-narrated facts are not in dispute. The only reason rendered in the communication which denies the petitioner pension is taking recourse to clause 2.3 of the policy Guidelines with regard to payment of pension under the Central Samman Pension Scheme. The Union of India through the Ministry of Home Affairs has notified certain guidelines for disbursement of Central Samman Pensions to be followed and disbursed by the authorized Public Sector Banks. It is not in dispute that the petitioner is held entitled for pension under the Scheme and the 4th respondent/Bank

is the authorized Public Sector Bank for such disbursement in terms of the Scheme. Certain guidelines that are germane read as follows:

> *"2.* ***Life Certificate & Bank's Responsibility:-***
>
> *2.1* ***Each bank should obtain a Life Certificate (As per Annexure-II) once a year in the month of November from the concerned freedom fighter or the dependent, as the case may be. For the purpose of obtaining Life Certificate, it is clarified that the pensioner must come face to face with the banker. Whenever it is found that the pensioner is too old to come to the bank then the bank officer must visit his/her place of residence before obtaining the Life Certificate. In case where the pensioners are above, the age of 80, the Life Certificate should be taken by the bank twice a year, once in May (Before 31st May) and once in November (before 30 Nov.).***
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> *2.2* ***If a pensioner does not submit his Life Certificate by 30th November, the Bank should immediately stop the pension. If the pensioner submits the Life Certificate few months after the November deadline but before nest 31st October, then the Bank may resume the pension and pay the arrears.***
>
> *2.3* *If a pensioner does not submit his Life Certificate by 30th November and thereafter does not submit it even till next 31st October, then the pension is deemed to have been cancelled and in such cases, the Bank should return the disburser's portion of PPO to the CPAO. After the said deemed cancellation,* ***if the pensioner re-appears either at the Bank or at the Ministry, the pension shall only be resumed after a fresh sanction order is issued by the Ministry followed by an issuance of fresh PPO. In such cases, no arrears shall be paid.***
>
> ***2.4*** ***Duty of the Bank in the event of non-submission of Life Certificate:-*** *It is presently seen that, in case where the pensioner does not submit the life certificate, the*

> *banks stop the pension and let the matter rest at that. This is not enough.* ***It is expected from the bank that, apart from stopping the pension, they should immediately visit the pensioner to find out why he/she did not submit the life certificate****. This will help bank to timely update its data (in case the pensioner has expired) and recover any excess payments."*
>
> *(Emphasis supplied)*

Clause 2 of the said guidelines deals with Life Certificate and Banks' responsibility. It is these guidelines that form the fulcrum of the entire issue in the *lis*. Clause 2.1 directs that the Bank shall obtain Life Certificate once a year in the month of November from the concerned freedom fighter or the dependent as the case may be. For the purpose of obtaining Life Certificate the pensioner must come face to face with the banker. Whenever it is found that the pensioner is too old to come to the Bank, then the Bank officer must visit his or her place of residence before obtaining the Life Certificate. In case the pensioner is above 80 years, the Life Certificate should be taken by the Bank twice a year – once in May and once in November.

11. Clause 2.3 directs that if a pensioner would not submit his Life Certificate by 30th November and thereafter does not submit

even till 31st October, then pension is deemed to have been cancelled and in such a case, the Bank should return disburser's portion to the Union of India. Clause 2.4 mandates the duty of the Bank in the event of non-submission of Life Certificate. The guidelines would direct that in case where the pensioner does not submit the Life Certificate, the Bank would stop pension and leave the matter at rest. The guidelines would indicate that, it was not enough and it is expected from the Bank that, apart from stopping pension, it should immediately visit the pensioner to find out why he or she did not submit the Life Certificate. The guidelines direct that this will help the Bank to timely update the data in case the pensioner has died and recover any excess payment.

12. On a coalesce of the guidelines *(supra)* what would unmistakably emerge is that if the pensioner is too old to come to the Bank, it is the Bank officer who should visit his/her residence before obtaining the Life Certificate. Clause 2.4 mandates that stopping of pension is not enough but it is expected from the officers of Bank that they immediately visit the pensioner to find out why he or she did not submit the Life Certificate.

13. In the teeth of the aforesaid guidelines, the issue in the *lis* has to be considered. It is admitted that the petitioner did not submit the Life Certificate from 01-11-2017 to 30-11-2018 which was for a period close to 13 months and led to deemed cancellation of payment of pension. The petitioner did submit the Life Certificate on 24-12-2018, even then, the pension was not restored in terms of the guidelines only on the ground that the petitioner had submitted the Life Certificated after 30-11-2018. This leads the petitioner to this Court in writ petition 7813 of 2020. This Court in terms of its order dated 24-06-2020 noticing the fact that the petitioner was already 100 years old, directed appropriate orders to be passed to restore the pension on the report submitted by the State Government within two weeks. This was not complied with. The petitioner had to invoke the contempt jurisdiction of this Court. It is during the pendency of the contempt petition, pension to the petitioner was restored, therefore, this becomes the first proceeding initiated by the petitioner for restoration of pension at the age of 100 years. The pension though was restored, arrears between the period 01-11-2017 to 30-11-2018 was not granted. Claiming the said amount, the petitioner again knocks at the doors of this Court

in Writ Petition No.22468 of 2021, this becomes the second petition at the age of 101 years. The submissions made by the Union of India and the Bank before the co-ordinate Bench and consideration of the co-ordinate Bench becomes germane for a consideration of the issue in the present *lis,* as all the submissions that are now being advanced by the Bank, were in fact made, and all of them have been negatived by the co-ordinate Bench and those findings have attained finality. The order of the co-ordinate Bench reads as follows:

> *"…. …. ….*
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> *5. Learned counsel for the petitioner inviting attention of this Court to Annexure-D/Guidelines for Disbursement of Central Samman Pensions, to be followed by Authorized Public Sector Banks, submits that the petitioner would be entitled for arrears of pension, pointing out particularly Clause 4.2[iii]. Further pointing out to Clause 2.4 of the Guidelines, learned counsel would submit that it is the obligation of the Bank to obtain life certificate that too when pensioners are aged above 80 years. Only because pensioner has not submitted life certificate, it is not open for the respondent-Bank to stop the pension. Learned counsel would contend that the timeline mentioned in Clause 2.2 for submission of life certificate is not mandatory and even though there is delay in submitting life certificate, once life certificate is submitted, the respondents ought to have paid pension from the date it was stopped. Thus, she submits that action of the respondents is wholly arbitrary and unreasonable. It is submitted that the Scheme is a social benevolent Scheme and as such, pension once sanctioned*

cannot be stopped or discontinued but for valid reason. It is also submitted that pension sanctioned is for lifetime.

6. Per contra, learned Assistant Solicitor General Sri.Shanthi Bhushan submits that pension of the petitioner was stopped from 01.11.2017 since the petitioner failed to submit life certificate as required. Learned Assistant Solicitor General invites attention of this Court to Clause 2.3 of the Guidelines at Annexure-D and submits that life certificate shall be submitted once in a year in the month of November from the concerned freedom fighter or the dependent, as the case may be and in cases where pensioners are above the age of 80, life certificate should be taken by the Bank twice a year, once in May and once in November. Further, he invites attention to Clause 2.2 and submits that if the petitioner does not submit life certificate by 30th November, the Bank has no option but to stop the pension. If the pensioner submits life certificate few months after November deadline but before next 31st October, then the Bank may resume the pension and pay the arrears. He submits that the petitioner failed to submit his life certificate and submitted his life certificate only on 24.12.2018 and therefore, the pension is granted afresh in terms of Clause 2.3 of the Guidelines. Learned counsel would invite attention to Annexure-R3/letter dated 19.02.2019 by the petitioner to the 4th respondent, to say that petitioner has admitted that due to old age he could not submit life certificate in time. Further, he submits that Clause 2.3 makes it clear that in such case, no arrears shall be paid. He also points out that if the pensioner fails to submit life certificate till next 31st October, then pension is deemed to have been cancelled. Petitioner's pension was deemed to have been cancelled and therefore after submission of his life certificate on 24.12.2018, pension was sanctioned afresh from the date of submitting life certificate. Therefore, he justifies the action of the fourth respondent.

7. Learned counsel Smt.Nayana Tara.B.G., for respondent Nos.1 to 3 justifies the action of the

respondent-Bank in stopping pension to the petitioner for his failure to submit life certificate within the period prescribed under Annexure-D/Guidelines. Learned counsel would submit that the petitioner failed to submit life certificate in the month of November as required under Clause 2.1 of the Guidelines and the petitioner failed even to submit before 31st October. Inviting attention of this Court to clause 2.3 of the Guidelines, submitted that if the pensioner fails to submit life certificate till next 31st October, then pension is deemed to have been cancelled and the Bank has no option but to return the PPO to CPAO. Further, she points out that the Bank has acted in accordance with the Guidelines at Annexure-D and there is no challenge to the Guidelines. She also submits that when pension is sanctioned afresh, pensioner would not be entitled to arrears in terms of Clause 2.3 of the Guidelines.

8. It is an admitted fact that the petitioner was sanctioned Swatantra Sainik Samman [SSS] Gaurava Dhana [Pension], (Freedom Fighters Pension) in the year 1974. The petitioner was also sanctioned Freedom Fighters Pension by the State Government. The petitioner was drawing his pension both Central and State through third respondent-Bank. The petitioner's Central pension was stopped with effect from 01.11.2017 as the petitioner failed to submit his life certificate. The relevant portion of the Guidelines No.45/03/2014-FF[P] issued by the Ministry of Home Affairs [Annexure-D] in the matter of payment of freedom fighters pension*, Clause 2 and 4 reads as follows:*

> ***"2. Life Certificate & Bank's Responsibility*** *:*
>
> *2.1 Each bank should obtain a Life Certificate* ***(As per Annexure-II)*** *once a year in the month of November from the concerned freedom fighter or the dependent, as the case may be. For the purpose of obtaining Life Certificate, it is clarified that the pensioner must come face to face*

with the banker. Wherever it is found that the pensioner is too old to come to the bank then the bank officer must visit his/her place of residence before obtaining the Life Certificate, In case where the pensioners are above the age of 80, the Life Certificate should be taken by the bank twice a year, once in May (Before 31 May) and once in November(before 30 Nov).

2.2 If a pensioner does not submit his Life Certificate by 30TH November, the Bank should immediately stop the pension. If the pensioner submits the Life Certificate few months after the November deadline but before next 31 October, then the Bank may resume the pension & pay the arrears.

2.3 If a pensioner does not submit his Life Certificate by 30th November and thereafter does not submit it even till next 31st October, then the pension is deemed to have been cancelled and in such cases, the bank should return the disburser's portion of PPO to the CPAO. After the said deemed cancellation, if the pensioner re-appears either at the bank or at the Ministry, the pension shall only be resumed after a fresh sanction order is issued by the Ministry followed by an issuance of fresh PPO. arrears shall be paid. In such cases, no arrears shall be paid.

2.4 Duty of the Bank in the event of non-submission of life certificate – It is presently seen that, in case where the pensioner does not submit the life certificate, the banks stop the pension and let the matter rest at that. This is not enough. ***It is expected from the banks that, apart from stopping the pension, they should immediately visit the pensioner to find out why he/she did not submit the life certificate.*** *This will help bank to timely update its date (in case the pensioner has expired) and recover any excess payments.*

4. Period of Undrawn Pension & payment of arrears:-

4.1 "Period of Undrawn Pension" means the period beginning from the month of November in which the pensioner defaulted in submitting his/her Life Certificate. This period therefore begins on 1st December.

4.1.1 Explanation:-

Even if by mistake of computer system of the Bank, a few months' pension continues to be credited to the pensioner's account, such amount will still be treated as 'Undrawn Pension'.

4.2. Whenever a pension has commenced but subsequently, after few months or years, the pension remains undrawn for any reason including non-submission of Life Certificate by the pensioner or due to his/her prolonged sojourn in a foreign country or ill health, then following situations may arise:-

(i) If the pensioner does not submit the Life Certificate in the month of November, then his pension should immediately be stopped. Thereafter, the bank should wait till next 31st October for the pensioner to appear and submit the Life Certificate.

(ii) If he appears and submits the Life Certificate before the end of next 31st October, then the bank may resume the pension and pay the arrears. (As per Para 2.2 of these Guidelines)

(iii) If he does not submit the Life Certificate even before end of next 31st October, the pension is deemed to have been cancelled (as per para 2.3 of these Guidelines) and

any payment of arrears should await Ministry's directions.

4.2.1 Explanation-I:

Under no circumstances, regardless of any reason, if a pension has been stopped by the bank, and ***the period of undrawn pension is more than 1 year then the pension should not be resumed automatically by the bank.***

4.2.2 Explanation-II:

No arrears for a period of more than one year should be paid by the bank without prior approval of the Ministry."

(emphasis supplied)

09. Clause 2.1 of the Guidelines requires the Bank to obtain life certificate once a year in the month of November from the concerned freedom fighter or the dependent in whose favour pension is sanctioned. It is also made clear in the said clause that for the purpose of submitting life certificate, the pensioner must come face to face with the banker. If the pensioners are not able to visit the Bank due to old age, then the Bank Officer must visit the place of residence of the pensioner to obtain the life certificate. If the pensioners are above the age of 80, the life certificate shall be taken by the Bank twice a year, once in May and once in November. If the pensioner does not submit life certificate by 30th of November, the Bank shall immediately stop pension. If the pensioner submits life certificate before next 31st of October, then the Bank can resume pension and pay the arrears. If the pensioner fails to submit life certificate even till next 31st October, then the pension is deemed to have been cancelled. If the pensioner re-appears either at the Bank or at the Ministry, a fresh sanction is necessary by the Ministry. Clause 2.3 makes it clear that in such cases no arrears shall be paid. If the life certificate is not submitted as required under clauses 2.1 and 2.3, the Bank has no option but to cancel the pension. Clause 2.4 of the Guidelines requires the Bank apart from stopping the pension should visit the

pensioner to find out why the pensioner did not submit life certificate. Clause 4.2 (iii) states that if the life certificate is not submitted before end of next 31st October, pension is deemed to have been cancelled and any payment of arrears should await Ministry's directions. A cumulative reading of the above Guidelines makes it clear that normally a pensioner would not be entitled to arrears when the pension is cancelled for non-submission of life certificate, but payment of arrears is totally not prohibited. Payment of arrears at the directions of Ministry could be paid.

10. In the instant case, admittedly the petitioner failed to submit his life certificate as on November 2017. The letter dated 19.02.2019 [Annexure-R3] by the petitioner to the fourth respondent-Ministry, it is clear that due to his old age, he could not timely submit life certificate. It also makes it clear that the petitioner requested the Bank to help him out. Life certificate is said to have been submitted by the petitioner only on 24.12.2018 and from the said date, pension is resumed afresh under Annexure-C dated 05.10.2020.

11. It is true that pensioner shall submit life certificate in terms of Clause 2.1 before the month of November of every year. If the life certificate is not submitted within next 31st October, pension is deemed to have been cancelled. In the instant case, since the petitioner-pensioner failed to submit life certificate by 31st October next, the pension was deemed to have been cancelled. Clause 2.1 requires whenever pensioner is too old to come to the Bank, then the Bank officer must visit the place of residence of the pensioner to obtain life certificate. Clause 2.4 would state that apart from stopping the pension, the Bank is required or expected to visit pensioner to find out why he/she did not submit life certificate. Learned counsel for the respondent-Bank was not in a position to submit as to what is the effort made by the Bank to visit the petitioner when the petitioner failed to submit his life certificate and whether the Bank has found out why the petitioner did not submit his life certificate. Admittedly, in the year

2017, the petitioner was aged 97 years and the Bank could not expect the petitioner to visit the Bank. A conjoint reading of Clause 2.1 and 2.4 of the Guidelines abundantly makes it clear that it is the duty and obligation of the third respondent-Bank to visit pensioner to obtain the life certificate, when the aged pensioner fails to submit his life certificate. Moreover, it is pertinent to note that the third respondent-Bank continued to credit State Freedom Fighters Pension while stopping Central Pension, when both require life certificate.

12. Freedom Fighter Pension under the scheme is granted for the life time and petitioner has not become ineligible or suffered any disability for receiving pension. No doubt, submission of life certificate is a necessary requirement and if pension is stopped for non-submission of life certificate, on submission of life certificate pension gets continued. When the Freedom Fighters Pension is for life and when the pensioner is alive, there is no reason to deny pension for the period of delay in submitting life certificate. The purpose of life certificate is to demonstrate that the pensioner is alive to receive pension or to see that pension is not misused on the death of pensioner.

13. It is not the case of the respondents that the petitioner had become ineligible for receiving Freedom Fighters Pension or the petitioner suffered any disability for receiving freedom fighters pension. Only reason for stoppage of Freedom Fighters Pension was that the petitioner had not submitted life certificate. The third respondent-Bank could not have expected the petitioner who was 97 years of age to come to Bank and submit life certificate. Even though Clause 2.3 of the Guidelines states that on re-submission of life certificate, pension is sanctioned afresh and no arrears shall be paid, clause 4.2(iii) would state that any payment of arrears should await the Ministry's directions. The Ministry has not taken any decision as to whether the petitioner would be entitled for arrears of pension in the peculiar facts of the present case i.e., the petitioner was aged 97 years and there is failure on the part of the Bank to visit the pensioner when he failed to submit life certificate.

> *14. Swatantra Samman Pension Scheme, 1980 introduced by the Central Government in a social beneficial Scheme for the benefit of freedom fighters and their families. In the peculiar facts of the present case, it is unreasonable to deny the arrears of pension to the petitioner. The object of the scheme is to benefit the freedom fighters. The object was also to honor the freedom fighters and where it was necessary, also to mitigate the sufferings of those who had given their all for the country for the hours of its need. Freedom Fighters pension is a form of gratitude extended by an indebted Nation in recognition of sacrifice made by freedom fighters for achieving independence. Liberal approach has to be adopted in such matters.*
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> ***15. For the reasons recorded above, the writ petition is allowed in part and the fourth respondent is directed to take appropriate decision, in terms of clause 4.2(iii) of the Guidelines for Disbursement of Central Samman Pension (Annexure-D), with regard to entitlement of the petitioner for payment of arrears from 01.11.2017 to 24.12.2018, keeping in mind the observations made above, within a period of three months from the date of receipt of a copy of this order and communicate its decision to the petitioner as well as 3rd respondent-Bank."***
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> *(Emphasis supplied)*

This Court *(supra)* after analyzing the guidelines on a thorough scrutiny directs that payment of arrears between 01-11-2017 and 24-12-2018 should be decided after assessing the entitlement of the petitioner. This leads to issuing of communication dated 13.09.2022. The communication of Government of India reads as follows:

"3. In view of the direction and observations of Hon'ble Court contained in the Court order dated 10.06.2022, your case has been examined and it has been found that arrears for the period from 1-12-2017 to 23.12.2018 are not admissible to you due to following reasons:

i. Life Certificate was not submitted by you in November 2017 and then even up to 31st October 2018. Non-submission of life certificate was confirmed by Bank. In representation dated 19.02.2019, you had also admitted that life certificate was not submitted timely.

ii. As life certificate was not submitted in November 2017 and even up to 31st October 218, your case came in the ambit of para 2.3 of this Ministry's Revised Policy Guidelines dated 06-08-2014. The para 2.3 states –

> *"2.3 If a pensioner does not submit his Life Certificate by 30th November and thereafter does not submit it even till next 31st October, then the pension is deemed to have been cancelled and in such cases, the bank should return the disburser's portion of PPO to the CPAO. After the said deemed cancellation, if the pensioner re-appears either at the bank or at the Ministry, the pension shall only be resumed after a fresh sanction order is issued by the Ministry followed by an issuance of fresh PPO. In such cases, no arrears shall be paid."*

In accordance with the Para 2.3, this Ministry vide letter dated 5-10-2020 issued fresh sanction restarting pension w.e.f. 24-12-2018, while no arrears were paid for the period before 24-12-2018.

iii. In Para 13 of the Order dated 10-06-2022, Hon'ble High Court has observed "Even though Clause 2.3 of the Guidelines states that on re-submission of life certificate, pension is sanctioned afresh and no arrears shall be paid, clause 4.2(iii) would state that any payment of arrears should await the Ministry's directions." The Para 4.2 (iii) of Revised Policy Guidelines states – If he (pensioner)

does not submit life certificate by next 31st October, the pension is deemed to have been cancelled (as per Para 2.3 of these Guidelines) and any payment of arrears should await Ministry's directions." As appears from the Para 4.2(iii), this Ministry may pay arrears in cases of deemed cancellation of pension by relaxing the Para 2.3 of Revised Policy Guidelines. But the relaxation to pay the arrears, as mentioned in para 4.2(iii) is not admissible in your case because such relaxation may be made in some exceptional cases only wherein the pensioner was not at fault in submission of life certificate at his end, but the pension got deemed cancelled due to fault at some other end. While in your case, it has been confirmed by Bank and you both that life certificate was not submitted in November 2017 and then even up to 31st October, 2018.

iv. *For resumption of pension, you could have submitted life certificate or sent a representation to Bank/ Ministry in this regard during the period of 1-11-2017 to 31-10-2018, which is not a small period, but it was a full year. But no such representation was received from your side.*

v. *In other similar cases of deemed cancellation of pension due to non-submission of life certificate also, this Ministry has not paid any arrears while restarting pension.*

4. As mentioned above, arrears are not admissible to you for the period of non-submission of life certificate. However, it has been noted that pension was not paid to you for the month of November 2017. While your pension, due to non-submission of life certificate in November, 2017 should have been stopped after payment of pension of November, 2017. Thus, the arrears for the period from 1.11.2017 to 30-11-2017 are payable to you.

5. You are requested to send a copy of Bank passbook attested by Bank Branch (along with BSR Code) so that your latest account details may be known and arrears for the period from 1-11-2017 to 30-11-2017 may be credited in your account."

(Emphasis added)

It is this communication that drives the petitioner yet again to this Court, for the third time, now at the age of 102 years.

14. It is not in dispute that the petitioner is entitled for the said pension. The only issue is, whether non-submission of Life Certificate for a brief period of one year could take away the right of the petitioner to get pension in the peculiar facts. Though submission of Life Certificate is imperative in terms of the guidelines and duty is cast on every pensioner to submit a Life Certificate, certain duty is also cast upon the Bank officials as well. The duty that is cast upon the Bank officials is that they should visit a person whose Life Certificate has not come about immediately to update their data with regard to restoration of pension or otherwise. The duty of the Bank is given a go bye. Vehement objections are put up by the learned counsel appearing for the Bank in order to save the officers who have derelicted in their duty in not adhering to the guidelines. Union of India has filed its statement of objections placing the blame on the Bank in terms of the guidelines

for having derelicted in such duty. The objections of Union of India read as follows:

> ***"(vi) That it is humbly submitted that it can be assumed that the pension of the petitioner was stopped because of the failure of the Bank, but it cannot be assumed that his pension was deemed cancelled only because of the failure of the Bank itself as there is a gap of one year between the withholding and cancellation of pension. The decision of the Ministry not to pay the arrears of his pension was based on these arguments."***
>
> *(Emphasis added)*

The Union of India indicates that it was assumed that pension of the petitioner had to be stopped because of failure of the Bank. But, it cannot be assumed that his pension was deemed cancelled only because of failure of the Bank as there is a gap of one year between withholding and cancellation of pension. The decision of Union of India cannot be found fault with, is the objection. The purport of the objection is that it was the duty of the Bank under the guidelines to have secured a Life Certificate. No doubt, the guidelines indicate that pension would be stopped immediately on non-submission of Life Certificate by any person under this particular scheme. It does not stop at that. Duty then begins on the part of the Bank.

15. The officers have displayed apathy to the cause of the petitioner in the peculiar circumstances of the case by not taking the Life Certificate as by then the petitioner was 97 years old and was recipient of pension for a long time under the Scheme. Above all, all these submissions have been made and negatived by the co-ordinate Bench in the order quoted *supra*. Therefore, the petitioner would be entitled to all the arrears along with interest, as the Bank has failed to collect Life Certificate from the hands of the petitioner in terms of the guidelines. The Bank ought to have visited the petitioner and collected the Life Certificate and regulated pension. A ***caveat,*** not in every case the Bank is obliged to do so. In cases where there are genuine problems of pensioners who are unable to visit up to the Bank, it is the duty of the Bank officers to visit those persons and take Life Certificate and update them on the system. The pensioners could be *septuagenarians, octogenarians, nonagenarians or centenarians* like the petitioner. Therefore, this order cannot be construed to be sweeping direction in all cases where the Life Certificate has to be secured by the Bank officers, but in genuine cases, the Bank officers ought to perform their duty

in terms of the guidelines so as to avoid unnecessary litigation of the kind that has been generated not once, twice, but three times.

16. Pension, is trite, not a bounty. In a broader significance, it is a measure of socio-economic justice, which inheres economic security, in the fall of life when physical and mental capabilities of a pensioner begins to ebb corresponding the aging process. The ***raison d'etre*** for grant of pension is the inability to provide for oneself due to such old age. This can be withheld, curtailed or taken away, only in accordance with law. Ebbing mental prowess and physical incapacity due to age was one of the prime reasons why the certificate could not be submitted in time. This, in the peculiar facts of this case, by no stretch of imagination, can be construed to take away the right of the petitioner for grant of pension, particularly, in the teeth of the guidelines. Therefore, the Union of India and the Bank ought to have paid arrears of pension to the petitioner and not driven the petitioner to yet another round of litigation, third in line, at the age of 102 years. In view of the preceding analysis, the petitioner is

held entitled to arrears of pension from 01-11-2017 to 24-12-2018, coupled with interest and cost of litigation.

17. For the aforesaid reasons, I pass the following:

O R D E R

(i) The Writ Petition is allowed with costs of ₹1,00,000/- to be paid jointly and severally paid by respondents 1 and 4.

(ii) A *mandamus* issues to the respondent No.1 to pay arrears of pension which is quantified at ₹3,71,280/- along with interest at 6% per annum from 24-12-2018 till date of payment.

(iii) The aforesaid payment shall be made within 2 weeks from the date of receipt of a copy of this order, failing which, the petitioner would become entitled to interest at 18% per annum from 24-12-2018 up to the date of payment.

Sd/-
JUDGE

bkp
CT:MJ