

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE
ON THE 21st OF OCTOBER, 2024
WRIT PETITION No. 28102 of 2023
LEELA DEVI BANSAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*(BY SHRI PRASHANT SHARMA – ADVOCATE FOR THE PETITIONER.
(BY SHRI S.S. KUSHWAH – GOVERNMENT ADVOCATE FOR
RESPONDENT/STATE)*

ORDER

By way of present petition under Article 226 of the Constitution of India the petitioner is challenging the order dated 11.05.2018 (Annexure P/1) whereby the application preferred by the petitioner whose husband, was a detenu under MISA/DIR during emergency period, for grant of statutory pension as provided under Lok Nayak Jaiprakash Narayan (MISA/DIR Rajnatik Ya Samajik Karano Se Nirudh Vyakti) Samman Nidhi Niyam, 2008 (in short Rules, 2008), has been rejected.

2. Learned counsel for the petitioner submits that the impugned order is illegal and a non-speaking order which fails to provide even the basic reasons for discarding the application of the petitioner for seeking pension under the Rules. It shall be pertinent to note that the petitioner fulfils all the basic eligibility criteria to claim the pension amount under the Rules. Further, the sole basis /

reason for discarding the request of petitioner in disbursing the pension is that in the light of the amendment of 2017 which has been made applicable, she is not entitled, however, on the date of applying for the pension benefit the Said rule was not even in existence. Hence, the said reason is *per se* false and illegal.

3. It is further submitted that the act of respondents is amounting to discrimination as the other similarly situated persons are receiving pension under MISA while the petitioner's husband who remained in jail for approx. 1 year, no consideration is made and no benefit was extended to him.

4. It was contended that very consideration of the application by the respondent authorities is on false and extraneous grounds. Thus, the impugned order dated 11.05.2018 (Annexure P/1) deserves to be set aside and suitable directions are required to be issued to the respondents to grant the pension which the petitioner is entitled being wife of a MISA/DIR detenu.

5. Per contra, Shri Kushwah appearing for the State submits that the application of the petitioner for grant of special pension under Rules, 2008 has rightly been rejected as no certificate of either the District Magistrate or the Jail Authorities or the concerning police station was filed to demonstrate that the petitioner was a MISA/DIR detenu which as per Rules, 2008 was basic requirement. It was further submitted that since the husband of the petitioner himself was not entitled for grant of statutory pension under Rules, 2008, the petitioner who happens to be his wife is also not entitled for any relief. Thus, it was submitted that present petition has no substance and deserves to be dismissed.

6. Heard learned counsel for the parties.

7. It is not in dispute that wife of a MISA/DIR detenu is entitled for half of the pension which the actual detenu would have received. The two affidavits of similarly situated prisoners were sufficient to hold that the said persons were detained in the prison as a MISA/DIR prisoner and were residing at Morena (M.P.). In the aforesaid context, if the application of the present petitioner which was filed on 31.05.2013 is seen, it is appended along with the affidavits of two prisoners who were detained in jail as a MISA/DIR prisoners namely Mohanlal Kori and Devi Singh Suryavanshi who had categorically stated on affidavits that the husband of the petitioner i.e. Shri Deendayal Bansal S/o Late Shri Mangilal Bansal R/o Dattpura Morena, at present R/o Mewa Wali Gali Danaoli Lashkar Gwalior was also detained in prison along with them as a MISA/DIR detenu which according to this Court was a sufficient compliance which has totally been ignored by the authorities while considering the application of the petitioner.

8. Thus, in the light of the aforesaid discussion, this Court finds that Annexure P/1 which is an order dated 11.05.2018 is per se illegal and, therefore deserves to be quashed and accordingly it is quashed, so far as it relates to the husband of the petitioner Shri Deendayal Bansal S/o Late Shri Mangilal Bansal. The respondent authorities are directed to grant Samman Nidhi as provided under Rules, 2008 to the petitioner as per her entitlement forthwith.

9. With the aforesaid direction, the petition stands allowed and disposed of

(MILIND RAMESH PHADKE)
JUDGE