A UNION OF INDIA

v.

MOHAN SINGH AND ORS.

SEPTEMBER 9, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Freedom Fighters Pension Scheme.

Claim for pension—Primary evidence in support of—Certificate of an C *MLA and a co-prisoner that the claimants had undergone imprisonment for six months—Considered by Government—Found that the claimants were not a freedom fighters—High Court holding that in view of the evidence produced by the claimants, they should be declared freedom fighters—On appeal held, Government already considered the documents and came to the conclusion that these documents were not sufficient to prove that the respondents had* D *suffered imprisonment—High Court not to have indulged in appreciation of evidence in this regard which is the function of the Government.*

Mukund Lal Bhandari & Ors. **v.** *Union of India & Ors.,* **[1993] Supp. 3 SCC 2, relied on.**

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12314 of 1996.

From the Judgment and Order dated 1.6.1995 of the Punjab & Haryana High Court in C.W.P. No. 3790 of 1994.

F N.N. Goswami, Hemant Sharma and P. Parmeswaran for the Appellant.

M.P. Jha, Sanjeev Walia, A.K. Chopra, Anil Mittal and Manoj Swarup for the Respondents.

G The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

H This appeal by special leave arises from the judgment and order

dated June 1, 1995 made by the Punjab & Haryana High Court in Civil Writ Petition No. 3790 of 1994. The first respondent, claiming to be a freedom fighter, made an application on August 1, 1972 for pension under the Freedom Fighters' Pension Scheme framed by the Government of India. The primary evidence in support of his undergoing imprisonment for six months has been based on a Certificate of an MLA and co-prisoner. That certificate was considered by the appellant Government, as per the directions of the High Court in an earlier writ petition, and it is found that the respondent was not a freedom fighter and, therefore, not entitled to the pension under the Freedom Fighters' Pension Scheme. The respondents again challenged the decision in the present writ petition. The High Court in the impugned order has held that in view of the evidence produced by the respondents, they must be declared freedom fighters. Accordingly, the writ petition has been allowed. Hence, this appeal by special leave.

A B C

This Court in *Mukund Lal Bhandari & Ors.* v. *Union of India & Ors.*, [1993] Supp. 3 SCC 2 (para 6) had held, as regards the sufficiency of the proof, that the Scheme itself mentions the documents which are required to be produced before the Government. It is not possible for this Court to scrutinize the documents which according to the petitioners they had produced in support of their claim, and pronounce upon their genuineness. It is the function of the Government to do so. We would, therefore, direct accordingly.

D E

It is seen that the High Court had directed the Government, in the earlier writ petition, and in compliance thereof the Government of India had considered the documents relied upon by the respondents and came to the conclusion, as a fact, that these documents are not sufficient to conclude that the respondents had suffered imprisonment. The High Court found it, on appreciation of evidence, to be sufficient, which the High Court cannot embark upon.

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The appeal is accordingly allowed and the order of the High Court stands set aside. The writ petition stands dismissed but under the circumstances without costs.

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G.N. Appeal allowed.

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