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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE

&
HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 23rd OF NOVEMBER, 2023

WRIT APPEAL No. 429 of 2015

BETWEEN:-

1. THE STATE OF MADHYA PRADESH THROUGH
THE PRINCIPAL SECRETARY GENERAL
ADMINISTRATION DEPARTMENT,
MANTRALAYA, BHOPAL (MADHYA PRADESH)
2. COLLECTOR, PANNA, DISTRICT PANNA (MADHYA
PRADESH)

.....APPELLANTS

(BY SHRI PIYUSH JAIN - GOVERNMENT ADVOCATE)

AND

GHANSHYAM SHARMA, S/O LATE SHRI SADHURAM
SHARMA, AGED ABOUT 89 YEARS, FREEDOM FIGHTER,
R/O GRAM DWARI, TAHSIL AMANGANJ, DISTRICT
PANNA (MADHYA PRADESH) (SINCE DECEASED)
THROUGH LR:

(1) SMT. RAMKUMARI, W/O LATE SHRI GHANSHYAM
SHARMA, AGED ABOUT 77 YEARS, R/O VILLAGE
DWARI, TAHSIL AMANGANJ, DISTRICT PANNA (M.P.)

.....RESPONDENT

(BY SHRI MANOJ KUMAR CHANSORIYA - ADVOCATE)

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This appeal coming on for orders this day, Hon'ble Shri Justice Ravi

Malimath, Chief Justice passed the following:

ORDER

Aggrieved by the order dated 06.01.2015 passed by the learned Single
Judge in W.P. No.9439 of 2014 in directing grant of Samman Nidhi to the writ

petitioner w.e.f. 08.12.2000, the State is in appeal.

2. The only contention being advanced by the Government Advocate is to the effect that the rejection of the claim of the petitioner was in November, 2013. However, the learned Single Judge has directed to grant the Samman Nidhi from 08.12.2000. The same runs opposite to the Larger Bench judgment of this Court in the case of Sheel Chand Jain vs. State of Madhya Pradesh and another reported in 2010 (2) MPLJ 689 (FB). The same is disputed by the respondent.

3. On hearing learned counsels, we do not find any merit in this appeal. The question of merits of the grant of Samman Nidhi is not in dispute. What is in dispute is only the relevant date. The earlier application filed by the petitioner for grant of Samman Nidhi was rejected by the order of authorities dated 08.12.2000. Thereafter, the same was challenged in W.P. No.12813 of 2007 which was disposed off on 08.10.2007. There was a direction to reconsider the application. The application was reconsidered and rejected. Thereafter the third writ petition was filed in W.P. No.881 of 2008 which was allowed vide order dated 19.01.2010 directing the respondents to pass an order granting Samman Nidhi to the writ petitioner. Thereafter, Writ Appeal No.407 of 2010 was preferred by the State, which was dismissed by the order dated 08.08.2013. Thereafter in compliance of the order, the appellants passed an order dated 11.11.2013 granting Samman Nidhi to the writ petitioner from November, 2013. Aggrieved by the same, the instant petition was filed. It was contended that the rejection of the plea of the petitioner was by the order dated 08.12.2000. The said contention was accepted. The Larger Bench of this Court in the case of Sheel Chand Jain (supra) in para 16 of the judgment answered the reference as

follows:-

"(i) The amendment made in Rule 3(6) of M.P. Swatantrata Sangram Sainik Samman Nidhi Niyam, 1972 vide notification dated 8.3.99 cannot be said to be ultra vires;

(ii) The provision in Rule 3(6) that freedom fighters will be entitled to claim the benefits of Samman Nidhi from the date of "sanction order", would also mean the date on which order is passed by the State Govt. rejecting the application in a case where such an order is set aside by the Court holding that Swatantrata Sangram Sainani would be entitled for pension;

(iii) State is bound to decide such an application in future with promptitude, to say, within one year from the date an application is filed."

4. Therefore, what was held in the said judgment was to the effect that in terms of the provisions in Rule 3(6) of the Madhya Pradesh Swatantrata Sangram Sainik Samman Nidhi Niyam, 1972, the freedom fighters would be entitled to claim the benefit of Samman Nidhi from the date of the sanction order would also mean the date on which the order is passed by the State Government rejecting the application. In the instant case, it is undisputed that the claim of writ petitioner was rejected by the order dated 08.12.2000. Thereafter various litigations have ensued culminating in the rejection of the Writ Appeal No.407 of 2010 on 08.08.2013. Thereafter an order was passed by the State on 11.11.2013 to grant the benefits. On a reading of the judgment it is quite clear that the order of rejection is the date on which the Samman Nidhi is to be paid to the freedom fighters. It is undisputed that the first order rejecting the Samman Nidhi was passed on 08.12.2000. Therefore, that would become the relevant date. The contention of the Government Advocate that the subsequent order of grant of Samman Nidhi would be the relevant date, in our considered view, cannot be accepted. If that were to be so, in a given case as in this case also if the litigation protracts for decades together and ultimately an

order is passed that would not become the effective date or the date on which it is rejected. The order of rejection is the initial order of rejection passed by the State on 08.12.2000. Therefore, following the Larger Bench judgment of this Court in the case of Sheel Chand Jain (supra), we are of the considered view that the learned Single Judge was not in error in passing the impugned order. Hence, we find no good ground to entertain this appeal. The same is dismissed.

5. The learned Government Advocate is not in a position to satisfy this Court as to whether the order of the learned Single Judge has been complied with or even payment from 2013 has been made or not. Under these circumstances, the respondents are directed to make the payment of Samman Nidhi to the writ petitioner w.e.f. 08.12.2000. In view of the long pendency of the dispute and entitlement of a freedom fighter for his pension since the year 2000, the State is directed to comply the order of the learned Single Judge and make the said payment along with interest as already ordered within a period of one week from today.

(RAVI MALIMATH)
CHIEF JUSTICE

psm

(VISHAL MISHRA)
JUDGE