

**Government of India**  
**Ministry of Home Affairs**  
**(Freedom Fighters Division)**

**SALIENT FEATURES OF**  
**SWATANTRATA SAINIK SAMMAN PENSION SCHEME, 1980.**

During the Silver Jubilee year of Independence a Central Scheme for grant of pension to freedom fighters and their eligible dependents (Where freedom fighters have already expired) was Introduced by government of India with effect from 15.08.1972. In 1980, the Scheme was liberalized and renamed as “Swatantrata Sainik Samman Pension Scheme, 1980” (the Scheme) and made effective from 01.08.1980. A copy of the said Scheme is as per Appendix A. Several provisions of the Scheme have been modified and clarified since then through different orders and circulars of the Govt. of India. A gist of such relevant orders and circulars is as per Appendix B-I to B-IV. A list of the movements which have been recognised for grant of pension under the Scheme is as per Appendix C. The Government of India, Ministry of Home Affairs places reliance on the principles propounded by the Apex Court and the Hon’ble High Courts in the cases cited in Appendix D.

Salient features of the basic provisions of the Scheme, as amended up to date, are as follows.

**2. Who is eligible for Samman Pension :-**

All the persons who participated in the freedom movement in some way or the other are not eligible for Samman Pension. Only following category of freedom fighters are eligible for the Samman Pension under the Scheme subject to furnishing of the specified evidences:-

**2.1 Eligible dependents of martyrs :-** A martyr is a person who died or who was killed in action or in detention or was awarded capital punishment due to participation in the freedom struggle of India. Relevant documents from official records and newspapers of the relevant time are considered as evidences in such cases.

**2.2 Imprisonment :-** A person who had suffered minimum imprisonment of six months (3 months in case of women, SC/ST freedom fighters) on account of participation in freedom struggle subject to furnishing of the following evidences:-

(a) Imprisonment/detention certificate from the concerned jail authority, District Magistrate or the State Govt. indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release. OR

(b) In case records of the relevant period are not available, a non-availability of records certificate (*NARC*) **from the concerned State/Union Territory Administration** along with 2 co-prisoner certificates (CPC) from freedom fighters who have proven Jail sufferings of minimum 1 year and who were with the applicant in the Jail. In case the certifier happens to be....or Ex.M.P./M.L.A., only one certificate in place of the two is required.

Gist of relevant Circulars/Instructions Issued by the Govt. of India under the Scheme regarding claims based on ‘Imprisonment/Detention’ is given in **Appendix B-I.**

**2.3 Underground :-** A person who on account of his participation in freedom struggle remained underground for more than six months provided he was ;

- A. a proclaimed offender; or
- B. one on whom an award for arrest was announced; or
- C. one for whose detention, order was issued but not served.

Explanation: Voluntary underground suffering or self exile suffering for party work under the command of the party leaders, are not covered as eligible sufferings for pension under the Scheme.

The claim of underground suffering is considered subject to furnishing of the following evidence:-

- (i) Documentary evidence by way of Court's / Govt.'s orders proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention. OR
  - (ii) Where records of the relevant period are not available, a non-availability of records certificate (**NARC**) from the concerned State/Union territory Administration along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail suffering of a minimum two years and who happened to be from the same administrative unit.
- Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Underground/Abscondence' is given in **Appendix B-II**.

**2.4 Internment/Externment :-** A person who, on account of participation in the freedom struggle, was interned in his home or externed from his district for a minimum period of 6 months is eligible subject to furnishing of order of Internment or externment issued by the competent authority, from official records. In absence of the official records, NARC from the State Govt./UT Administration concerned, along with a certificate from prominent freedom fighter, who had proven jail sufferings of at least two years; who belonged to the same administrative unit and whose area of operation was same as that of the applicant, should be furnished.

- Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Internment/Externment' is given in **Appendix B-III**.

**2.5 Loss of Property :-** A person whose property was confiscated or attached and ... due to participation in the freedom struggle is eligible subject to furnishing of orders of confiscation and sale of property, provided that the persons whose property was restored are not eligible for Samman Pension.

- Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Loss of Property' is given in **Appendix B-III**.

**2.6 Permanent incapacitation :-** A person who on account of participation in freedom struggle, became permanently incapacitated during firing or lathi charge subject to furnishing of:-

- (a) Certificate from the District Magistrate stating that permanent incapacitation was done by bullet injury/lathi charge sustained during participation in the National Freedom Struggle and
- (b) Medical Certificate from the Civil Surgeon in Support of the handicap.

**2.7 Loss of Government Job :-** A person who lost his Govt. job for participation in freedom struggle is eligible subject to furnishing of orders of dismissal or removal from service. However, persons who were reinstated in service before expiry of two years from their dismissal or removal from service and were in receipt of benefits or pay and allowances are not eligible for pension.

- Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Loss of Government Job' is given in **Appendix B-III**.

**2.8 Canning/Flogging/Whipping :-** A person who was awarded the punishment of 10 strokes of caning/flogging/whipping due to his participation in freedom struggle is eligible subject to furnishing of copies of orders passed by the competent authority from official records.

- Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Canning/Flogging/Whipping' is given in **Appendix B-III**.

### 3. Procedure

Persons who consider themselves eligible for Samman Pension under the Scheme and desire the Samman Pension, should apply in duplicate on the prescribed application form. The application, duly filled in and supported with required documents as proof of claim of suffering, should be sent to the Chief Secretary of the Concerned State Government/Union Territory Administration. A copy of such application should be sent to the Deputy Secretary to the Government of India, FF Division, MHA, New Delhi as an advance copy. ***However, claims can be processed by the Central govt. only on receipt of verification & entitlement to pension report from the State Govt./U.T. Administration concerned.***

### 4. Cases Recommended by Committees

The Government of India had constituted certain non official Screening Committees, such as “Hyderabad Special Screening Committee”, to scrutinize the claims of freedom fighters pension in the cases where primary evidences from official records were not available due to efflux of time. These Committees consisted of the prominent freedom fighters who were leading lights of the movements for freedom of the nation or for merger of the princely states in the Union of India. The Committees were expected to recommended the genuine claims of freedom fighters who fulfilled the criteria for the pension as laid down in the Scheme. In other words, neither nature of the sufferings nor their period was relaxed in the cases considered by such Committees. Recommendation of the Committees is advisory in nature and the Govt. of India could accept or reject such recommendations. The cases recommended by the Committees could also be referred to the State Governments for such verification as was deemed appropriate.

### 5. Acceptability of Secondary Evidence

Secondary evidence can be considered only if supported by a valid **NARC**. The provisions of the Scheme were clarified to the State Governments in several circulars of the Govt. of India, gist of which is available in the Appendix attached herewith. The Instructions on **NARC** were reiterated by the Govt. of India, Ministry of Home Affairs, vide Circular No. 8/12/95-FF (P) dated 2.11.98, relevant extracts of which are reproduced as follows:-

“As per the scheme, claims of the applicants for samman pension are required to be supported by the duly verified official records of the relevant times. Only in case of non-availability of such records, secondary evidences, as specified in the scheme, can be made basis of such claims. However, due care and caution is required in such cases in view of several instances of bogus/ forged claims which have come to the notice of the Central Government. It is of utmost importance that before recommending such cases, complete facts of the case in which the applicant claims involvement, are verified from all the agencies which could have been concerned with the matter. These may include the police station concerned, the District administration, the jurisdictional court, competent authority issuing detention order, the advisory board/appellate court, prison authorities, and intelligence agencies. Discrete enquiry should also be made to ascertain genuineness of the claims. The **NARC** should be issued only after the above verification. It is reiterated that the **NARC** should invariably be worded as follows

**All concerned authorities of the State Government who could have relevant records in respect of the claim of the applicant, have been consulted and It is confirmed that the official records of the relevant time are not available. ”**

### 6. Important Judicial pronouncements in the context of the Scheme.

**Appendix D** gives gist of important principles laid down by Hon’ble Supreme Court and the High Courts in the context of the Scheme.

### 7. Most common reasons for rejection of claims of Samman Pension

The following is an illustrative list of the most common reasons for rejection of claims or nonacceptance of the recommendation of a State Government under the SSSP Scheme 1980.

- i. Non-submission of application in the prescribed form supported by specified evidences duly verified by the State Government.
- ii. Non-recommendation of the claim by the State Government. Mere forwarding by the State Government does not amount to recommendation.
- iii. Recommendation of the claim by the State Government without verification of the claimed sufferings and supporting evidences.
- iv. Recommendation of the claim by the State Government ignoring its earlier non-recommendation without any fresh material evidences and valid justification.
- v. Furnishing of CPCs or PKCs from Ineligible/indiscriminate certifiers.
- vi. Lack of or inappropriate or unacceptable NARC lacking vital information such as facts of the case, case number, dates etc. or NARC issued by the State Government or any other authority without verifying all possible sources as required in para 5 *ibid*.
- vii. Contradictory claims made by the applicant from time to time in his applications/representations etc. or contradiction between the claims and evidences furnished.
- viii. Forgery, mis-representation of facts regarding documents, age etc.
- ix. Certifier and the applicant not belonging to the same districts (In case of underground sufferings).
- x. Period of Imprisonment of applicant not tallying with that of the certifiers in case of CPCs.
- xi. Applicant claiming to be part of "others" mentioned in Court document pertaining to some case related to freedom struggle, without adducing reliable evidence in support of the claim.

# **APPENDIX - A**

## **SWATANTRATA SAINIK SAMMAN PENSION SCHEME, 1980. FORMERLY KNOWN AS FREEDOM FIGHTERS' PENSION SCHEME, 1972.**

**15TH AUGUST, 1981.**

### **INTRODUCTION**

During Twentyfifth anniversary (Silver Jubilee year) of Independence a Central Scheme for the grant of pension to freedom fighters and their families from Central Revenues was introduced by the Government of India. The Scheme commenced from 15th August, 1972 and provided for the grant of pension to living freedom fighters and their families; if they are no more alive, and to the families or martyrs. The minimum quantum of pension sanctioned to a freedom fighters by Rs. 200/- p.m. and in case of families varied from Rs. 100/- to Rs. 200/- in accordance with the size and number of eligible dependents in the family. Till 31st July, 1980 the Freedom fighters pension was admissible only to those who were in need of financial assistance on account of their meager annual gross income. Thus an annual income ceiling of Rs. 5000/- was enforced for eligibility to pension. From 1.8.1980, the benefit of the pension scheme has been extended to all freedom fighters as a token of Samman to them.

### **2. ENHANCED RATE OF PENSION**

Not only the income ceiling has been removed from 1st August, 1980 but quantum of monthly pension has also been raised. The monthly pension has thus been increased from Rs. 200/- to Rs. 300/- in case of living freedom fighters and from Rs. 100/- to Rs. 200/- to the widow of the late freedom fighter with additional Rs. 50 p.m. each for unmarried daughter upto a maximum limit of Rs. 300/- per month.

### **3. WHO ARE ELIGIBLE DEPENDENTS**

For the purpose of grant of Samman pension, family includes (if the freedom fighter is not alive) mother, father, widower/widow if he/she has not since remarried, unmarried daughters.

Not more than one eligible dependent can be granted pension and in the event of availability of more than one dependent the sequence of eligibility will be widow/widower, unmarried daughters, mother and father.

### **4. WHO IS ELIGIBLE ?**

For the purpose of grant of samman pension under the scheme, a freedom fighter is :-

- (a) A person who had suffered a minimum imprisonment of six months in the mainland jails before independence on account. However, ex-INA personnel will be eligible for pension if the imprisonment/detention suffered by them was outside India.
- (b) The minimum period of actual imprisonment for eligibility of pension has been reduced to three months, in case of women and SC/ST freedom fighters from 1.8.1980.

### Explanation

1. Detention under the orders of the competent authority will be considered as imprisonment.
2. Period of normal remission upto one month will be treated as part of actual imprisonment.
3. In the case of a trial ending in conviction, under trial period will be counted towards actual imprisonment suffered.
4. Broken period of imprisonment will be totalled up for computing the qualifying period.
- (b) A person who remained underground for more than six months provided he was :
  1. a proclaimed offender; or
  2. one on whom an award for arrest/head was announced; or
  3. one for whose detention order was issued but not served.
- (c) A person interned in his home or externed from his district provided the period of internment/externment was six months or more.
- (d) A person whose property was confiscated or attached and sold due to participation in the freedom struggle.
- (e) A person who became permanently incapacitated during firing or lathi charge.
- (f) A person who lost his job (central or state Government) and thus means of livelihood for participation in national movement.

A MARTYR is a person who died or who was killed in action or in detention or was awarded capital punishment while participation in a National Movement for emancipation of India. It will include an ex-INA or ex-Military person who died fighting the British.

### WHAT ARE THE MOVEMENTS/MUTINIES CONNECTED WITH NATIONAL FREEDOM STRUGGLE

5. Apart from the mainstream of the liberation struggle the movements/mutinies which were directed against the British (French in case of Pondichery and Portuguese in case of Goa) with freedom of the country as its ultimate goal are also treated as part of National Freedom Struggle for the purpose of grant of pension unless any movement (s) is specifically decided as not qualifying for the grant of Samman pension.

The movements for merger of erstwhile Princely States within the Indian Union after 15th August, 1947 and the freedom struggle in the former French and Portuguese possession in India (Colonies) are considered as part of the National Freedom Movement for the purpose of grant of Samman Pension under scheme.

### 6. HOW TO APPLY?

Person who consider themselves eligible for Samman Pension under the Scheme should apply in duplicate on the prescribed application Form. One form duly filled and supported by required documents as proof of claim of suffering should be sent to the Chief Secretary to the state Government/Union Territory Administration concerned. The second copy should be sent to the Deputy secretary to the Government of India, Freedom Fighters Division, Ministry of Home Affairs, First floor, Lok Nayak Bhavan, New Delhi-3 as an advance copy.

### 7. AVAILABILITY OF APPLICATION FORMS

Application forms can be obtained from either of two officers i.e. State Govt./U.T. concerned or Freedom Fighters' Division, Ministry of Home Affairs, 1st Floor, Lok Nayak Bhavan, New Delhi free of cost. All State Govts./U.T. Administrations have been instructed to make available the prescribed application forms in sufficient number at all levels including Block/Tehsil level.

## 8. LAST PRESCRIBED DATE FOR SUBMITTING APPLICATIONS

The last date for receipt of applications invited in 1972 was fixed as 31.3.1974. As a result of liberalisation of pension scheme from 1.8.1980 to 31.7.1981 was given for filling applications for Samman Pension. The persons who could not apply earlier due to any reason or who were not sanctioned pension even though they were eligible may submit their applications immediately but before 31st July, 1981. This date was extended. The receipt of applications has since been stopped after 31.3.1982.

## 9. HOW TO PROVE THE CLAIMS (EVIDENCE REQUIRED)

The applicant should furnish the documents indicated below whichever is applicable :-

### (a) IMPRISONMENT/DETENTION ETC.

Certificate from the concerned jail authorities, District Magistrates or the State Government in case of non-availability of such certificates co-prisoner certificates from a sitting M.P. or M.L.A. or and ex-M.P. or ex-M.L.A specifying the jail period (Annexure - I in the application form).

### (b) REMAINED UNDERGROUND :

(i) Documentary evidence by way of Court's/Government orders proclaiming the applicant as an offender, announcing an award on his head, or for his arrest or ordering his detention.

(ii) Certificates from veteran freedom fighters who had themselves undergone imprisonment for five years or more if the official records are not forthcoming due to their non-availability.

### (c) INTERNMENT OR EXTERNMENT

(i) Order of internment or externment or any other corroboratory documentary evidence.

(ii) Certificates from prominent freedom fighters who had themselves undergone imprisonment for five years or more if the official records are not available.

(Annexure II in the application).

Note :-

The Certifier veteran freedom fighters in respect of underground suffering, internment/externment and the applicant should belong to the same administrative unit before the reorganisation of States and their area of operation must be the same.

### (d) LOSS OF PROPERTY, JOB, ETC.

Orders of confiscation and sale of property, Orders of dismissal or removal from service.

## 10. ISSUE OF SANCTION ORDER

The receipt of advance copy of application form is acknowledged. The claim of the applicant will be scrutinized in the State Government/Union Territory administration in consultation with State Advisory Committee on the basis of copy of application submitted to them. After receipt of State verification and entitlement to pension report, the claim of the applicant is scrutinized and if found eligible pension is granted. Sanctions are issued as applications are scrutinised and conveyed to the Accountant General of the areas with copies to the Chief Secretary of the state Government/U.T. Administration and the Collector/D.C. of the District concerned. Simultaneously, a communication conveying sanction of pension as also the amount of pension is issued to each grantee. Applicants whose applications are not approved are duly informed.

## 11. HOW TO RECEIVE PENSION (MODE OF PAYMENT)

On receipt of sanction order, the Accountant General concerned will issue P.P.O. authorising the Treasury/Sub-Treasury Officer concerned to make payment of the pension on production of identification documents which will consist of :-

1. Photograph
2. Two prominent identification marks.
3. Specimen signature or left hand thumb and finger impressions duly attested by a competent authority, in the case of freedom fighters who are not literate enough to sign their names.
4. Date of birth.

On furnishing these, the Treasury Officer/Sub-Treasury Officer will commence payment of pension.

#### RULES PERMIT DRAWAL OF PENSION

1. Either in person from the Treasury or the Sub-Treasury, or
2. By Money Order:-
  - (a) at the cost of the Government if the amount of monthly pension does not exceed Rs. 250/-
  - (b) on payment of money order commission if the amount of pension exceeds Rs. 250/-
3. Through a banker if the grantee has opened an account with a bank. In such case, the pensioner shall have to prepare a bill every month, present it to his banker who will collect his pension from the Treasury or the Sub-Treasury on his behalf and credit it to his account.
4. With effect from 1.8.1980, facilities for drawal of pension through Public sector Banks has been extended to freedom fighters pensioners.

#### 12. DURATION

Except in the case of unmarried daughters, the pension is for the life-time of the recipient. In the case of unmarried daughters, pension ceases immediately after they are married or become otherwise independent. In the case of death of a pensioner his/her heirs though other-wise eligible for pension will not automatically succeed to such a pension. They shall have to apply afresh with proof of the pensioner and their applications will be considered in terms of the Pension scheme.

Freedom Fighters Division, Ministry of Home Affairs, Govt. of India, Lok Nayak Bhawan, New Delhi - 110 033

## APPENDIX - B-I

### IMPRISONMENT/DETENTION SUFFERINGS

- i. **Certificate issued by the Police Station** regarding period of imprisonment should not be relied upon, It should be from DM/SDM/Jail Superintendent or Superintendent Of police - [Circular No. 8/53/73-FF. II dated 17.09.73]
- ii. (a) **Pre-mature release** due to Gandhi Irwin Pact or other General Amnesty orders after undergoing minimum Imprisonment of 5 months may be considered eligible.  
(b) Freedom fighters **convicted by lower courts** and who suffered imprisonment for at least six months should be considered eligible even if **acquitted by Appellate Court** provided it was not tendering **an apology or giving an undertaking** [Circular No. 8/1/74-FF(P) dated 06.06.74]
- iii. **Remission** of a period up to 30 day in a sentence of six months should be taken into consideration - [Circular No. 8/24/74-FF(P) dated 23.08.74]
- iv. **Release on bail** would not be a disqualification provided Imprisonment suffering was for six months or more - [Circular No. 8/8/75-FF(P) dated 13.03.75]
- v. **Imprisonment and abscondence** sufferings should be taken **together** for calculating six months - [Circular No. 8/32/76-FF(P) dated 28.10.76]
- vi. Freedom Fighters who suffered Imprisonment for a minimum six months but later gave **evidence against other freedom fighters** resulting in their conviction should not be granted pension - [Circular No. 8/39/76-FF(P) dated 24.12.76]
- vii. In case of **SC/ST** freedom fighter, **remission** of the period up to 15 days in a conviction of three months may be considered - [Circular No. 8/39/81-FF(P) dated 01.09.81]
- viii. Acceptance of **CPCs** from freedom fighters having proven jail sufferings of not less than one year in connection with the freedom struggle. [Circular No. 8/4/83-FF(P) dated 31.1.83]
- ix. **Pre-mature release on medical grounds** may be considered where the freedom fighter was sentenced for a minimum of six months but was released early. - ( Circular No.8/37/87-FF(P) dated 21.10.87)

**APPENDIX - B-II**  
**UNDERGROUND/ ABSCONDENCE SUFFERING**

- i. Person who were underground for more than six months but **charges against whom were withdrawn subsequently** should not be granted pension as a rule ( Circular No.8/1/174-FF(P) dated 09.07.74)
- ii. Imprisonment and abscondence suffering should be taken together for calculating six months- ( Circular No.8/32/76-FF(P) dated 28.10.76)
- iii. Clarifications regarding nature and definition of underground sufferings. **Voluntary underground suffering does not qualify** -( Circular No.8/12/81-FF(p) dated 22.04.81)
- iv. Detailed compilation reiterating the existing instructions on underground/ internment/ externment sufferings issued clarifying inter alla that
  - (a) before recommending the cases for sanction on the basis of secondary evidences, the **State Government must satisfy themselves that the applicant was a genuine freedom fighter and the official records of that period were not available;**
  - (b) the certifier issuing PKC should ordinarily belong to the same District as that of the certified;
  - (c) there should be complaints about indiscriminate certification against the certifier;
  - (d) **All cases based on secondary evidences like PKC** should be submitted for consideration to the **State Advisory Committee** and **extract** of the proceedings of State Advisory should be forwarded along with the recommendation to the Central Government for Consideration- ( Circular No.8/12/81-FF(P) dated 13.4.82).

**APPENDIX -B-III**  
**OTHER SUFFERINGS**

- i. **Loss of private job** cannot be treated a ground for grant of FF Pension under the scheme ( Circular No.8/56/73-FF.II dated 12.02.74).
- ii. Person who were **dismissed/removed/resigned from service and later reinstated/re-employed and/or given benefits** including arrears of pay and pension are not eligible for FF pension ( Circular No.8/1/74-FF(p) dated 6.6.74).
- iii. **Loss of service under the District Board** should be treated at par with the loss of Govt.service. ( Circular No.8/35/74-FF(p) dated 16.10.74)
- iv. Where **loss of Govt. job** is for a long period, say, more than two years and reinstatement does not include payment of salary and other benefits, claims could be considered. ( Circular No.8/33/87-FF(p) dated 29.9.88)
- v. Persons whose **property was confiscated** or attached but later restored to them are not eligible for FF Pension ( Circular No.8/1/74-FF(p) dated 6.6.74).
- vi. the manner in which cases of **flogging/Whipping/canning** are to be considered and decided ( Circular Nos.8/4/83-FF(P) dated 31.1.83 & 8/29/87-FF(p) dated 15.10.87)
- vii. Nature and definition of **internment/externment/underground** sufferings clarified, Internment in one's village would not qualify - ( Circular No.8/12/81-FF(P) dated 22.4.81)

**APPENDIX -B-IV**  
**OTHER RELEVANT CIRCULARS / INSTRUCTIONS UNDER THE SCHEME**

- Persons involved in **heinous offences** should not be considered for FF pension. (Circulars No.8/8/72-FF.II dated **15.3.73** and **8/8/83-FF(p)** dated **23.2.83**)
- **No central pension except on the basis of the State Government's verification and recommendation** ( Circular No.8/25/77-FF(P) dated 12.8.77).
- **PKCs** to be accepted only after ascertaining that the certifier has actually undergone imprisonment for two years. ( Circular No. 8/66/82-FF(P) dated 4.6.84 read with Circular No. 8/35/84-FF(P) dated 15.5.85)
- Clarifications on **NARC** stating that material particulars must be given and the certificate should be from the state government after verifying from all the relevant sources. ( Circular No.8/12/95-FF(P) dated 7.1.96)
- **Revised guidelines** on secondary evidences like **NARC, PKC** and **CPC** issued in compliance with directions of the Hon'ble **Supreme Court** in the case of Union of India Vs. R.V.Swamy, reported at AIR 1997 S.C. 2069. ( Circular No. 8/6/98-FF(P) dated 13.7.98 and 8/12/98-FF(p) dated 2.11.98)
- Pension to be cancelled if the recipient is found indulging in **anti-social activities** over a long period for which he /she has been convicted more than once. ( Circular No.8/25/78-FF(P) dated 10.8.78)
- Clarifications regarding the manner in which the **legal heirs** are to be paid arrears of pension of deceased freedom fighter. ( Circular No.8/49/75-FF(P) dated 29.9.77)
- In order to rule out possibility of fake claims of family pension, the applicants to furnish an affidavit along with the **joint photograph** of spouse as well as unmarried daughters before issue of formal pension. (Circular No.8/17/89-FF(P) dated 18.5.92)
- **Kheksar Movement** should not be treated as part of Freedom Movement. (Circular No.8/6/75-FF(P) dated 3.2.75)
- Participants of the Mutiny of the personnel of the Indian Signal Corps at Jabalpure in 1946 should not be treated as freedom fighters. ( Circular No. 6/2/74-FF(P) dated August 1976)
- The following Movements were not recognised for the purpose of pension under the Scheme-
  - (a) Daksha Morcha of Sikaikot (b) Kirpan Morchas (c) Beopar Mandal Movement. (Circular No.6/4/74-FF(P) dated 22.1.75)
- Participation and suffering in the following Movements/Mutinies would be covered by the state Freedom Fighters' Pension Scheme-
  - (a) Self-exile for securing freedom for Pondichery
  - (b) Malabar Teachers' Struggle in Kerala (1939-40)
  - (c) Chengannur Riots case in Travancore ( 1939-40)

## APPENDIX -C

### LIST OF MOVEMENT/MUTINIES/ STRICES/ CONSPIRACIES RECOGNISED UNDER THE SWATANTRATA SAINIK SAMMAN PENSION SCHEME, 1980.

1. Suez Canal Army Revolt in 1943 during Quit-India Movement & Ambala Cantt. Army Revolt in 1943.
2. Jhansi Regiment Case in Army (1940)
3. Rani Jhansi Regiment and Azad Hind of INA (1943-45).
4. Hollwell Revolt Movement conducted by Netaji in 1940 at Calcutta.
5. Royal Indian Navy Mutiny, 1946.
6. Khilafat Movement.
7. Harsha China Morcha (1946-47)
8. Mopla Rebellion (1921-220).
9. Army Samaj Movement in the erstwhile Hyderabad State ( 1947-48).
10. Mudurai Conspiracy case (1945-47)
11. Border Camp Case in erstwhile Hyderabad State (1947-48)
12. The Chaddar Movement.
13. The Gurudwara Reform Movement (1920-250 includings:-
  - (a) Taran Taran Morcha.
  - (b) Nanka Targedy of February (1920).
  - (c) The Golden Temple Ke Affairs (Morcha Chabian Saheb).
  - (d) Guru ka Bagh Morcha.
  - (e) Babar Akali Movement.
  - (f) Jaito Morcha.
  - (g) Bhai Pheru Morcha; and
  - (h) The Sikh Conspiracy ( Golden Temple) of 1924.
14. (i) Praja Mandal Movement in the erstwhile Princely States (1939-49).  
(ii) Fatehwal case of 1938-39.  
(iii) Singhai episode.
15. Kirti Kisan Movement (1927).
16. Navajavan Sabha (1926-31)
17. Quit India Movement (1942)
18. INA and IIL (1942 to 1946)
19. Merger Movement in the former French and portugueses possessions in India.
20. Peshawar Kand in which members of the Garwal Rifles took part.
21. Red leaf Conspiracy Case (1931)
22. Chaura Chauri Kand (1922)
23. Aranya Satyagraha of karnataka (1939-40).
24. Goa Liberation Movement.
25. Kalipattanam Agitation (1941-42).
26. Kallara- Pangode case.
27. Kadakkal Riot case.
28. Chengannur Riot case.
29. Vattiyoorkavu Conference.
30. Anti-Independent Travancore Movement, 1947.
31. Punnapra- vayalar Movement
32. Karivellor Movement.
33. Kavumbai Movement.
34. Kayyur Movement.
35. Morazha Movement
36. Malabar Special Police Strike (MSP Strike)
37. Dadra and Nagar Haveli Movement.

## APPENDIX-D

### GIST OF LEADING JUDICIAL PRONOUNCEMENTS IN THE CONTEXT OF SWATANTRATA SAINIK SAMMAN PENSION SCHEME

#### 1.0 Pension subject to proof required under the scheme:-

The scheme came up for consideration of the Hon'ble Supreme Court in Mukand Lal Bhandari & others Vs Union of India AIR 1993 SC 2127. We quote therefrom a few observations made by their Lordships.

"The petitioners would undoubtedly be entitled to the benefit of the Scheme provided, course, they produce the relevant material in support of their claim".

"As regards the sufficiency of the proof, 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."

"The pension should, of course, be sanctioned only after the required proof is produced."

**1.1** Following the aforesaid principle, Hon'ble **High Court of Delhi**, in its order dated 12th August, 1998 in CWP No. 4368/95 in the matter of Shri B.M.Rao Vs.UOI and oths., observed

"in the case at hand, the petitioner has failed to prove his eligibility for entitlement under the Scheme by tendering the *proof of the nature and in the manner contemplated by the Scheme*. The rejection of the petitioner's claim by Central Government cannot be found fault with."

**1.2** In state of H.P. and another Vs. Smt. Jafil Devi 1997 (5) SCC 301, the **Supreme Court** has held in the context of a beneficial scheme for compassionate appointment that *the policy laid down by the Govt. should not be departed from merely on account of sympathetic consideration and hardship*.

#### 2.0 Limits of Judicial Review Under Art.226 of the Constitution

Hon'ble **Supreme Court** in the case of Union of India Vs Mohan Singh and others. (JT 1996(8) S.C.341) has held -

"This Court in Mukand Lal Bhandari and others Vs. Union of India and others. [(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."

**2.1** The issue again came up before the Apex Court in the case of **Union of India Vs. R.V.Swamy Air 1997 SC 2069**. Hon'ble **Supreme Court**, after considering the issue at length, held -

"In this case, the evidence does indicate that there is no proof of any warrant issued against the respondent as a proclaimed offender nor is there any evidence of actual proof indicating actual sentence." ( para 7)

"Under these circumstances, the **reliance on the certificate issued by the persons** mentioned in the judgement of the High Court **is a matter of appreciation of evidence.**" ( para 8)

"In view of the above consideration, **it being a pure appreciation of evidence, the High Court was not justified in directing grant of freedom fighter pension to the respondent.**" ( para 10)

"Of late, large number of cases have been coming up quite frequently for grant of Freedom Fighter Pension on the basis of the certificate issued by some pensions with status of freedom fighters and are by and large not found to be acceptable to the Government of India. Since several matters are coming up to this Court, It is for the Government of India to re-consider the matter and to lay down appropriate clear guidelines for the so-called freedom fighters who issued certificates to persons who come forward for Freedom Fighters Pension. Learned Counsel for the respondent has stated that since the State Government has recommended the case of deceased - respondent for grant of Freedom Fighter Pension, the respondent widow may be given liberty to approach the State government in that behalf. Liberty is given to her to approach the State Government. It is for the State Government to consider the application according to their guidelines and dispose it of on merits." ( para 11)

In compliance with the directions of the apex court in para 11 *ibid*, the issue of secondary evidences such as NARC, PKC and CPC was reconsidered by the and detailed guidelines were issued by the Govt. of India, Ministry of Home Affairs, vide Circular No. 8/6/98-FF(P) dated 13.07.98 and 02.11.98.

**2.2** The limits of judicial review have been succinctly explained by Hon'ble Mr. Justice Sachchidanand Jha of **Patna High Court** in judgement dated 15.3.2000 in the case of Baijnath Singh Vs. The State of Bihar and Others - Civil Writ jurisdiction case No.6752 of 1996, as under-

"While making judicial review of administrative decision, the *court is not supposed to sit as Appellate Authority*, and substitute its own findings in place of findings recorded by the authorities. As is often said, the court while making judicial review has to see the correctness or otherwise of the *decision making process and not the correctness of the decision itself*. Where the court finds that there were materials available before the authority, on the basis of which the impugned decision could be arrived at, it is not supposed to go in to the question of *adequacy of the material*. In the context of dispute relating to grant of freedom fighters pension, in the well known case of Mukund Lal Bhandari Vs. UOI, AIR 1993 SC 2127, the Apex Court observed as under -

*As regard the sufficiency of the proof, 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.*

**The question as to whether the person was freedom fighter or not is to be decided by the competent authority of the Government and not by this court. This court is merely to see whether there were materials before the authority in coming to the adverse conclusion."**

**2.3** The Hon'ble **High Court of Karnataka** at Bangalore in its order dated 15th April, 1998 in W.P.No 22912/1993 between M.A.Rawal and Union of India and another has held-

"Regarding sufficiency or otherwise of the material produced and regarding the genuiness or otherwise of the documents produced by the petitioner, *It is for the Government to consider and this court cannot embark upon the same*".

**2.4** The Hon'ble **High Court of Karnataka** at Bangalore in its judgement dated 21st November, 1997 on W.P No.925/1995 between P.V. Shetty and Union of India and another has held-

"The scheme contains the provisions as to how such imprisonment or underground suffering should be proved. First respondent has made it clear that in the absence of a primary evidence i.e.certificate from the jail showing imprisonment, petitioner should produce personal knowledge certificate from other persons who were imprisoned at least for two years. Petitioner has not produced such certificate and therefore rejection cannot be said to be arbitrary and unreasonable. **In UNION OF INDIA Vs. MOHAN SIGH reported in JT 1996(8) Sc 34**, the Supreme Court has cautioned that only the Government can pronounce on the genuineness of documents produced for claiming pension and the **High Court, under writ jurisdiction shall not embark upon reappraisal of the evidence.**"

**2.5** Again the Hon'ble **High Court of Karnataka** in W.P. No.2175/97 in the case of H.L.Linge Gowda Vs. The state of Karnataka & UOI, has, vide order dtd.29-19-98, held that-

"The **court is not sitting in appeal** over the orders of the second respondent. The second respondent has formulated Swatantrata Sainik Samman pension Scheme in the year 1972 ( amended from time to time). *Unless an applicant "satisfies the requirements of the said scheme, the will not be entitled for pension under the said scheme"*.

**2.6** Hon'ble Mr.Justice Aftab Alam of Hon'ble **Higher Court of Patna** in the order dated 24.3.99 in C.W.J.C. No.3741 of 1998 in the case of Shri Dina Nath Pathak Vs. UOL and Others has held-

"It is evident that the Central Government took a decision on the petitioners claim after due consideration of all the material facts and circumstances. **This court does not sit in appeal over a decision of the Central Govt.** and suffice it to note that the concerned authorities took the decision after due consideration of all material facts and circumstances of the case."

### **3.0 Date from which pension should be granted- Restrospective or Prospective:-**

The **Hon'ble Supreme Court** had held in Mukund Lal Bhandari's case that pension should be granted from the date of application. Subsequent to this the apex court has held that in cases where **benefit of doubt** was given and the status of freedom fighter was recognized on that basis, the benefit will be *given from the date of the Order and not the date of application*. [Union of India and Oths.Vs.Ganesh Chand Dolal and Oths.-Civil Appeal of 1995 arising out of S.L.P. (C) No. 2325 of 1995-Judgement dated 24th April 1995 and Union of India Vs M.R Chelliah Thevar-Civil Appeal No. 7762 of 1996 arising out of S.L.P.(C) No. 25053 of 1995 dated 30th April, 1996.

**3.1** The above principle of sanction of pension prospectively and not from the date of application in the ' benefit of doubt category' has been applied by the **Division Bench of Hon'ble A.P. High Court** in the judgement dated 21.12.1999 in writ appeal No.1974 of 1999 in the case of the Deputy Secretary. MHA and another Vs.K.Venkamma.Observations of Hon'ble Mr.M.S.Liberhan, the Chief Justice and Hon'ble Mr.Justice Goda Raghuram are reproduced as under

"The learned counsel for the appellants has read out the application made by the husband of the petitioner in court which is to the effect that the applicant has hoisted a flag in the village and persuaded the people not to pay the land revenue and thereafter he went underground. There is no evidence to prove either of the incidents. It is simply an assertion. The screening committee, which has gone into the case of the applicant, however, recommended for grant of pension to him giving benefit of doubt, but not on the recommendation made by the Screening Committee giving benefit of doubt. From the material on record, it is clear that pension was granted to the husband of the write petitioner only on the recommendation made by the screening committee giving benefit of doubt, but not on the basis of documentary proof of the applicant suffering in the movement. For these reasons, we fully agree with the learned counsel for the appellants that it is a case of benefit of doubt and without interfering with the finding arrived at by the screening committee and in view of

the law laid down by the supreme court which is binding on us, the pension is allowed from the date of the order only."

### **3.2 What is the date of application?**

Considering the question as to what should be the date of application, the **Hon'ble Supreme Court** in *Union of India and Oths. Vs Ram Jeevan Singh and Oths.*, vide judgement date 14th November, 1994 in petition(s) for Special leave to Appeal (Civil No.(s)../94CC 27667 ( From the judgement and order dated 10.12.93 of the High Court of Patna in C.JC No 7123/93) held that-

"The only question is from what date the respondent is entitled to the payment of pension. Admittedly, on two occasions his claim was rejected. On the third occasion an application was made on 19.8.91 and pension was granted thereon. Therefore, when the High Court has stated that the respondent is entitled from the date of the application obviously, it would be 19.8.91."

### **4.0 Underground Sufferings-Evidence Required:-**

In the case of *Sakti Bala Samanta Vs. Union of India* 2000 (1) CLJ 573. Hon'ble **High Court of Calcutta** has summed-up the correct position of eligibility in the case of claims based on underground suffering. The court has held-

"The underground suffering for six months which is recognized as a ground for grant of pension provides that the pension should have gone underground only after he was wanted by police for his activities relating to National struggle for freedom. In other words, the freedom fighter should either be a proclaimed offender or on whom an award for arrest was announced or on whom detention order was issued but was not served; but *voluntary abscondence or issue of warrant on any other ground than the one mentioned above will not make a person eligible for pension.*" (para 13)

"By taking aid of the liberalized pension scheme, an applicant can insist on acceptance of a certificate by a freedom fighter having requisite eligibility as a secondary evidence in support of his claim if the official records are not available. But, in a given circumstances, the Central Government is entitled to reject such certificate if other contrary evidence is available falsifying the claim of the applicant or the contents of the certificate." (para 14)

*"If a freedom fighter under the guidance of the certifier remains underground for years " for continuance of his service to the country" but not proceeded by any warrant of arrest or order of proclamation on the aforesaid ground, he is not entitled to get pension.* The certificate merely described the husband of the petitioner as a 'proclaimed offender' but did not assert that the period of underground was more than six months from the date of issue warrant nor did it assert that he was declared a proclaimed offender for the above reason." ( Para 21)

*"The petitioner cannot take advantage of the previous decision for the simple reason that in order to invoke writ jurisdiction, the onus is upon the petitioner to satisfy the Court that he has a legal right to get the relief claimed."* ( para 31)

**"A judgment or decree obtained by playing fraud on the Court is a nullity and non-est in the eye of law. Such a judgment or decree by the first Court or the highest Court has to be treated as nullity by every Court whether superior or inferior. It can be challenged in any Court even in a collateral proceeding."** ( para 42)

**4.1** Considering the claim of underground sufferings for freedom fighters pension, the Hon'ble **High Court of Kerala** in O.P.No.12401 of 1996 in the case of *C.S.Adiyodi Vs Union of India and Others*. Vide judgement dated 8th June, 1998 had held-

"Merely because one claims that he had been in underground in connection with the freedom fight, he will not be eligible for grant of pension. Records regarding proclaimed offender or award of arrest will be available in the concerned police station. Only a detention order can be certified by the Revenue Divisional Officer. Thus the petitioner did not produce before the author-

ity concerned the necessary documents to prove that he was a proclaimed offender or these was an award of arrest against him or that there was detention order against him. Unless such documents are produced one cannot be granted freedom fighter's pension on the claim of underground suffering."

## **5.0 Recommendation of the State Government**

### **A. Whether binding?**

Simply because a case been recommended by a State Government, freedom fighters pension cannot be granted by the Central Government unless the conditions specified in the Scheme are fulfilled. Pension cannot be granted on the basis of certificates of certifiers who have been indulging into **Indiscriminate certification** and therefore have been black-listed by the Central Government. Hon'ble **High Court of Punjab and Haryana** in C.W.P.No.16280 of 1995 in the case of Mulkha Singh and Oths: Vs Union of India and Oths. Vide judgement dated 9th September, 1996 has held-

"It is unthinkable that persons issuing these certificates can possibly remember exact date and the period of the innumerable co-prisoners after such a long time. No doubt, State of Punjab on the basis of instructions has chosen to grant pension to the petitioners vide Annexure P-1 but that itself can hardly be a ground to inter that the petitioners' claim are genuine."

### **B. Basis or recommendation by State Govt.-Important:-**

The Hon'ble **High Court of Karnataka** vide judgement dated 19th November, 1997 in the case of M.Y.Sontakkl Vs Union of India and another (Writ Appeal No. 6883 of 1996) has held-

"Assailing the order of the learned single judge, the learned Counsel for the appellant relied upon Annexure-E to contend that in view of the recommendation made by the Government of Karnataka, the respondent No.1 ( Union of India) was not justified in rejecting the claim for the grant of Freedom Fighter's Pension. We have perused Annexure-E and do not find any substance in the submissions of the learned Counsel because it reiterates only the averments made by the appellant in his application. The state Government is not shown to have made any *recommendation on the basis of any material or other evidence*. Even from Annexure-E it is evident that the superintendent of Central Jail, Belgaum had intimated the authorities that the records relating to the period prior to 27.3.1943 was not available in his office. The so called recommendation in favour of the appellant was made on the basis of certificate issued by the alleged two co-prisoners. It has been subsequently found that the aforesaid two *co-prisoners have been black listed on the ground of indulging in the issuance of such certificate*. The learned single judge was therefore justified in upholding the order of the respondent No.1. We have not been persuaded to take any other view in the matter despite perusal of the document referred to by the learned Counsel for the appellant."

### **C. conditions for recommendation by state Governments**

The application of a person can be recommended by the State Govt. only when the person produces evidence in support of his suffering. The pension can be granted only when the claim is supported by official documents. Hon'ble **High Court of Kerala**, in judgement dated 6.11.98 in O.P.No.13512/94-H in the case of Sri.K.C.Sundaram Vs. State of Kerala and Oths, held-

"A person, who is unable to produce any evidence in support of his suffering, cannot seek a direction for recommending his application. The application can be recommended to the Central Government, only if one had undergone suffering during freedom fighters' struggle. For that purpose, **a simple averment is not sufficient. It shall be supported by official documents.** One is entitled for freedom fighters' pension, If he had been imprisoned on the basis of his participation in the freedom struggle or he had been in underground, evading from police in connection with any case relating to freedom struggle. In such cases, there will be official records to show that an incumbent underwent imprisonment or a warrant had been issued against him. in the absence of produc-

tion of any document by the petitioner, the decision taken in Exts.P5 and P7 cannot be said to be faulty."

"Nobody can say that one has gone underground because of the warrant issued in connection with the case relating to freedom struggle."

**D.** Observations of Hon'ble Mr. Justice B.J.Sethna of Hon'ble Rajasthan High Court in *Surati Prakash Vs. U.O.I.* ( S.B. Civil W.P. No.2981/98 Judgement dated 8.3.2000) in this regard are as follows.

**"If the petitioner does not fulfill the criteria for pension under the Central Government Scheme, then merely because the State Govt, has issued Tamra Patra and granted pension to him that automatically would not entitle him to get pension under the Central Government Scheme also as a freedom fighter,"**

**E. Recommendation of the State Govt.is not binding**

Recommendation of the State Govt. is not binding on the Central Govt. if the conditions necessary for the grant of pension are not fulfilled. The Hon'ble **High Court of Patna** in C.W.J.C.No.8665/97, in the case of *Kishori Singh Vs. Union of India & Others*, vide judgement Dtd. 8-1-99 has held that-

"It is true that the Central Government will grant Swatantrata Samman pension under the aforesaid Scheme of 1980 on the recommendation of the State Government, but the recommendation of the State Government is not binding on the authority granting such pension."

"..... The recommendation is sent to the Central **Government for consideration and not for granting pension.** In other words, the recommendation of the State Government is not final or conclusive. It is for the authority of the Central Government granting such pension to make further scrutiny in the matter take final decision."

**6.0 Reliability of secondary evidence**

The Scheme specifies the nature of primary evidences which are to be furnished by the applicants for the pension. In absence of primary evidences, applicants are allowed to furnish secondary evidences. However, secondary evidences should be reliable enough to induce a reasonable belief that the applicant fulfilled the conditions of the Scheme. Cautioning the authorities in the matter of reliance on secondary evidences, Hon'ble **High Court of Karnataka** vide judgement dated 19th March, 1997 in W.P.No.35193/96 in *Siddappa Shivallngappa Vs Union of India* has held

**"In my opinion such certificates cannot be taken to be always genuine & conclusive proof for granting pension under the pension scheme. Further, it cannot be denied that such certificates can be obtained without much efforts."**