

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SECOND APPEAL No. 17 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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JAYANTILAL MANISHANKAR JOSHI - Appellant(s)**Versus****GOVERNMENT OF INDIA THROUGH ITS SECRETARY, & 1 -
Defendant(s)**

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Appearance :

MR KASHYAP R JOSHI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 28/02/2007****ORAL JUDGMENT**

1. Mr.Kashyap R. Joshi, learned counsel for the appellant.

None for the respondents though served.

2. The appellant Jayantilal Manishankar Joshi has filed the

suit challenging the orders passed against his interest, wherein freedom fighter pension has been refused on the ground that the appellant could not successfully prove his entitlement.

3. Learned trial court, after recording the evidence and hearing the parties, held that the plaintiff did file the certificate that he was sent to jail, but could not prove that for what period he remained in jail and as the plaintiff failed in proving that he remained in jail for six months or more, he was not entitled to any pension, the appeal was dismissed, therefore, the appellant is before this Court.
4. Swatantrata Sainik Samman Pension Scheme, 1980, which is popularly known as freedom fighter pension scheme requires that such freedom fighter should have been detained in jail for six months or more and such jail certificate filed in support of jail suffering has to be based on final records of the jail.
5. In the present case, the plaintiff could not file a certificate relating to his release and from the judgement of the Supreme Court in the matter of Union of India Vs. Avtar Singh, reported in 2006 AIR SCW 3803, it would be clear that certificate of the co-prisoner would not be sufficient

proof. After giving my anxious consideration to the facts, I am unable to hold that the learned courts below were unjustified in dismissing the suit. The appeal deserves to and is accordingly dismissed.

(R.S. GARG, J.)

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