

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

W.A.No. 1858 of 2013 () IN WP(C).18170/2008

AGAINST THE JUDGMENT IN W.P.(C) 18170/2008 of HIGH COURT OF KERALA DATED
15-07-2013

APPELLANT(S)/1ST RESPONDENT:

UNION OF INDIA,
REP. BY THE DEPUTY SECRETARY TO GOVERNMENT,
MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTER'S DIVISION,
LOK NAYAK BHAWAN, KHAN MARKET, NEW DELHI-110 001.

BY ADV. SRI.S.KRISHNAMOORTHY, CGC

RESPONDENT(S)/PETITIONER/2ND RESPONDENT:

1. ELIZABETH SIPRI,
W/O.LATE VARKEY SIPRI, KURUSINKAL VEEDU, KATTOOR MURI,
KATTOOR P.O., ALAPPUZHA-688 522.
2. STATE OF KERALA,
REP. BY PRINCIPAL SECRETARY TO GOVT.
GENERAL ADMINISTRATION (FFF A) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R1 BY ADV. SRI.K.K.SATHEESH
R2 BY GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 19-08-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A.No.1858 of 2013

Dated this the 19th day of August, 2015

JUDGMENT

Antony Dominic, J.

1st Respondent in W.P.(C) No.18170 of 2008 is the appellant. The writ petition was filed by the 1st Respondent herein claiming pension under the "Swatantrata Sainik Samman Pension Scheme", on the basis of Ext.P4 application dated 20.03.1998. During the pendency of the writ petition, by Ext.P8 order dated 31.08.2010, dependant family pension was granted with effect from 12.02.2005. By the judgment under appeal, the learned Single Judge ordered that the said benefit shall be given with effect from 20.03.1998, the date on which Ext.P4 application was made and that arrears shall be calculated and disbursed within three months from the date of receipt of a copy of the judgment. It is this judgment which is under challenge.

2. We heard the learned counsel for the appellant, learned counsel for the 1st Respondent and the learned Government Pleader appearing for the 2nd Respondent.

3. It is contended on behalf of the appellant that the appellant having received the application long after 20.03.1998, when the application was made to the State Government, they cannot be made liable for granting pension from the date of the application. However, this contention cannot be accepted in the light of the principles laid down by the Hon'ble Apex Court, which have been followed by the learned Single Judge, where it has been held that when pension is granted on the basis of the 'primary evidence' such grant shall be effective from the date of application. In so far as this case is concerned, admittedly, Ext.P8 order was issued on the basis of 'primary evidence' as contemplated under the Scheme. If that be so, the learned Single Judge was fully justified in directing that payment of pension be made from 20.03.1998, the date when the application was made.

We do not see any illegality in the judgment. Appeal fails and accordingly it is dismissed.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-