

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10219 of 2013 (B)

PETITIONER:

**N.V.ALIKUNJU, NANETH HOUSE,
EDAVOOR P.O., KOOVAPPADY(VIA),
ERNAKULAM DISTRICT, KERALA, PIN-683544.**

**BY ADVS.SRI.P.ALI
SRI.A.MUHAMMED HASHIM**

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY THE DEPUTY SECRETARY,
FREEDOM FIGHTERS DIVISION,
MINISTRY OF HOME AFFAIRS, 1ST FLOOR,
LOK NAYAK BHAWAN, NEW DELHI-110003.**
- 2. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
GENERAL ADMINISTRATION DEPARTMENT,
GOVT.OF KERALA, THIRUVANANTHAPURAM, PIN - 695 001.**
- 3. THE DISTRICT COLLECTOR,
ERNAKULAM, PIN - 682 030.**

**R1 BY SRI.S.KRISHNAMOORTHY, CGC
R2 & R3 BY GOVT. PLEADER SRI.NOUSHAD THOTTATHIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 10219 of 2013 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE JUDGMENT IN WPC 17396/2010.
- EXHIBIT P2 : TRUE COPY OF THE LETTER OF 2ND RESPONDENT DATED 9-1-2013.
- EXHIBIT P3 : TRUE COPY OF REPORT OF THE SUB TREASURY,
CHANGANACHERY DATED 13-2-2013.
- EXHIBIT P4 : TRUE COPY OF THE REPORT of the 3RD RESPONDENT
DATED 18-3-2013.
- EXHIBIT P5 : TRUE COPY OF THE RECOMMENDATION DATED 15-3-1996.
- EXHIBIT P6 : TRUE COPY OF THE ORDER DATED 23-3-2013 OF 2ND RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF VERIFICATION REPORT AND RECOMMENDATION OF
THE APPLICATION IN ANOTHER PERSON DATED 28-7-2012.
- EXHIBIT P8 : TRUE COPY OF THE PKC OF LOUISE GREGORY.
- EXHIBIT P9 : TRUE COPY OF THE EXTRACTS OF CONVICT REGISTER OF LOUIS
GREGORY.

RESPONDENT(S)' EXHIBITS:

- EXT.R1(A) : TRUE COPY OF THE SSS PENSION SCHEME 1980.
- EXT.R1(B) : TRUE COPY OF THE GOVT. OF KERALA LETTER NO.79538/FFP-
83/2003/GAD DATED 10.2.2014.
- EXT.R1(C) : TRUE COPY OF THE LETTER F.NO.52/CC/K/118/2010-FF(SZ)
DATED 11.12.2013.

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 10219 of 2013

Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner alleges that he is a freedom fighter participated in the Quit India Movement disobeying prohibitory orders. He is a recipient of State Pension. The petitioner submitted fresh application with required documents and the 2nd respondent forwarded the application without recommendation to the 1st respondent as per Ext.P6 order dated 23.03.2013. According to the petitioner, the Personal Knowledge Certificate, as per Exts.P8 & P4 report of the 3rd respondent, and Ext.P5 recommendation of the District Advisory Committee are the substantial evidence to show that the petitioner participated in the freedom movement. Therefore, according to the petitioner, it is necessary to forward his application to the 1st respondent for getting Swatantrata Sainik Samman Pension.

2. A counter affidavit has been filed by the 1st respondent stating that all persons, who took part in

freedom movement in some way or other, are not eligible for Samman Pension under the "Swatantrata Sainik Samman Pension Scheme, 1980". They contended that only such of the freedom fighters are eligible for Samman Pension, who fulfills the conditions of the Scheme by furnishing the proof of claimed sufferings of the nature and in the manner specified in the Scheme itself. A copy of the salient features of the Scheme also is produced as Ext.R1(a). They further contended that the petitioner had claimed imprisonment suffering as well as underground suffering for the same period. Therefore, they have taken the stand that the claim of the petitioner has been found full of contradictions right from the beginning and he has not been able to prove his claim beyond reasonable doubt. According to them, he has been found trying to misrepresent the State Government as well as the Central Government, which is evident from State Government's letter No.79538/FFP.A3/2003/GAD dated 10.02.2004.

Considering the facts and circumstances of the case, this Court is of the view that the writ petition can be

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disposed of directing the State Government to have consultation with five agencies reporting the availability of records pertaining to the case, in which the petitioner claims to have been convicted and sentenced.

Therefore, the writ petition is disposed of directing the State Government to have consultation with five agencies, viz., the Director General of Police, Law and Order; the Additional Director General of Police, Prison; the Chief Judicial Magistrate, Ernakulam; the Commissioner of Land Revenue, Thiruvananthapuram; and the District Court, Ernakulam, and to obtain report regarding the availability of records pertaining to the case, in which the petitioner claims to have been convicted and sentenced. After obtaining the reports as aforesaid, the 2nd respondent shall consider the same after affording the petitioner an opportunity of being heard. Appropriate orders shall be passed thereafter. The entire exercise shall be completed within a period of three months.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-