

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 15TH DECEMBER 2009 / 24TH AGRAHAYANA 1931

WP(C).No. 23074 of 2005(V)

PETITIONER(S):

M.P. VASUDHARAN,
S/O. LATE SHRI. K.PADMANABHAN, AGED 74 YEARS,
RESIDING AT MANGALATHU VEEDU, AICKARAKONAM,
PUNALUR.

BY ADV. SMT.NIDHI BALACHANDRAN

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO THE
GOVERNMENT OF KERALA, GENERAL ADMINISTRATION(FFPB)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR, KOLLAM DISTRICT.
3. THE TAHSILDAR,
PATHANAPURAM, KOLLAM DISTRICT.

R1 TO R3 BY SR. GOVERNMENT PLEADER SMT. N.SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15/12/2009, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

J U D G M E N T

The petitioner and counsel are absent. Therefore, the writ
petition is dismissed for default.

15/12/2009

Sd/- S.Siri Jagan, Judge

/True Copy/

P.A.to Judge

kss

K.VINOD CHANDRAN, J.

W.P.(C).No.23074 of 2005

Dated this the 18th day of June, 2015

JUDGMENT

The petitioner is aggrieved with the rejection of the freedom fighters pension, as per Ext.P9. The application made by the petitioner was once rejected as per Ext.P7 finding that the co-prisoners certificate cannot be relied on since they had not suffered imprisonment for the required one year period, to enable them to issue such a certificate. Since, Ext.P7 was found to have been passed without hearing the petitioner a reconsideration was ordered as per Ext.P8 judgment of this Court. The Government by a detailed order as revealed in Ext.P9 reconsidered the claim and rejected it. The petitioner assails the said order as having been made without a proper consideration.

2. The rejection by Ext.P9 was on the ground that the jail records of the freedom fighters does not indicate that the said freedom fighters had suffered imprisonment for a period of one year. The case of the

petitioner himself is that the petitioner was required to submit an application as per Ext.P1, the Annexure accompanying which indicated the manner in which the said application is to be submitted. Admittedly, as per Ext.P1, the application is to be supported by the official records of imprisonment suffered by the applicant in the cases of going under-cover and the records relating to the arrest warrant issued. If no such official records are available, the certificates of two freedom fighters who had suffered imprisonment along with the applicant and whose period of detention was more than one year is to be submitted.

3. A perusal of the Annexure to Ext.P1 indicates that, in the case of claim of having gone under-cover, the certificate of a freedom fighter who had suffered imprisonment for period exceeding two years and a recipient of 'Thamra pathra' and freedom fighters pension, is mandatory. In the event, the claim is of imprisonment, the substitute for official records, is the verification of two freedom fighters who had suffered imprisonment for a minimum period of one year, along with whom the

petitioner suffered the imprisonment. The applicant also has to reveal the case details which led to the imprisonment in the application. The petitioner's claim is one of imprisonment between 04.03.1946 to 10.9.1946.

4. A perusal of the application would show that the petitioner had produced the certificate of three freedom fighters viz, Kesavan Gopi, Sankaran Kumaran and O.Raghavan. The examination of the convict register of the said freedom fighters as produced along with Ext.P2 at page no.21,23 and 25 indicates that they had suffered imprisonment for various periods but not during the period in which the petitioner suffered imprisonment. The petitioner's admitted case is that, the petitioner was imprisoned between 04.03.1946 and 10.09.1946.

5. The convict register at page 21 indicate that the said freedom fighter was imprisoned between the Malayalam Era 1115 and 1116. Similar is the period of imprisonment of the other freedom fighter whose convict register is produced at Page no.23. The convict register of the third freedom fighter indicates his imprisonment between Malayalam Era 1115 and Malayalam Era 1120.

Hence the said Freedom Fighters were imprisoned between 1939-1940 and 1944-1945. The petitioner's claim of imprisonment is in the year 1946. No reliance can be placed on such certificates since, obviously those persons are not co-prisoners of the petitioner and the scheme specifically requires the co-prisoner's certificate having a period of detention above one year.

6. Further the petitioner as per his own declaration was only 15 years of age when he claims to have been imprisoned. Though that alone cannot disentitle him, the lack of evidence, render significant the age of the petitioner during which he claims to have been imprisoned.

The writ petition hence is found to be devoid of merit and the same is dismissed. No costs.

K.VINOD CHANDRAN
JUDGE

AD