

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 20224 of 2012 (C)

PETITIONER(S) :

P.V.VARKEY,
PUTHIYEDATHU HOUSE, RAYAMANGALAM P.O.,
PERUMBVOOR, ERNAKULAM DISTRICT,
KERALA, PIN-683 545.

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-110 003.
2. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
GENERAL ADMINISTRATION DEPARTMENT, GOVT. OF KERALA,
THIRUVANANTHAPURAM - 695 001.
3. THE DISTRICT COLLECTOR,
ERNAKULAM-682 030.

R1 BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA,
BY GOVERNMENT PLEADER SRI.SAIDALAVI &
R1 BY ADV. SRI.S.KRISHNAMOORTHY, CGC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09/04/2015, THE COURT ON 27/05/2015 DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1:- COPY OF THE APPLICATION DATED 21/11/2006.

EXT. P2:- COPY OF THE LETTER OF THE 1ST RESPONDENT DATED
30/09/2001.

EXT. P3:- COPY OF THE LETTER OF THE 2ND RESPONDENT DATED
21/10/2011.

EXT. P4:- A TRUE COPY OF THE RECOMMENDATION ORDER DATED
28/07/2012.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 20224 of 2012

Dated this the 27th day of May, 2015

J U D G M E N T

The petitioner has come up before this Court for a direction to the 2nd respondent to forward Ext.P1 application submitted by him for 'Swathantrata Sainik Samman Pension' with due recommendation to the 1st respondent within one month and for a direction to the 1st respondent to proceed to sanction the said pension to the petitioner within a time frame.

2. The petitioner alleges that he had participated in the Quit India Movement and remained underground by a warrant of arrest in CC No.60 of 1122 for a total period of ten months from October 1946 to August 1947. He is a recipient of State Freedom Fighters' Pension. He applied for the 'Swathantrata Sainik Samman Pension' in the prescribed application form on 21.11.2006. He alleges that the application was supported by the

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Personal Knowledge Certificate of freedom fighter, Oontaman Aiyappan, belonging to the same administrative unit. He alleges that he applied to get the records of arrest and consequential orders from the Judicial First Class Magistrate, Perumbavoor, which issued certificates in CC No.60/1112 showing non availability of the records. He made Ext.P1 application along with Non Availability of Records Certificate and certificate of the freedom fighter supported by the extract of convict register. The petitioner alleges that the 2nd respondent, as per Ext.P3, informed the petitioner that his claim has already been forwarded. However, the petitioner's claim has not been considered so far. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the 1st respondent, they contended that the claim of the petitioner could not be considered by the Ministry of Home Affairs in the absence of verification report of the Government. Thus, the petitioner is not eligible to receive the benefit of 'Swathantrata Sainik Samman Pension'; so contended the

1st respondent.

4. In the counter affidavit filed by the 2nd respondent, they contended that the Kerala Freedom Fighters Pension Rules and Swathantratha Sainik Samman Pension Rules are different. The mere fact that the petitioner is a recipient of State Freedom Fighters' Pension does not make him automatically eligible for 'Swathantrata Sainik Samman Pension'; it is contended. According to the said respondent, the petitioner has not produced any cogent document to substantiate his claim.

5. Arguments have been heard.

6. The claim of the petitioner is that he has participated in the Quit India Movement. The Quit India Movement was in the year 1942. Warrant of arrest, according to the petitioner, was issued against him in the year 1122 ME, which corresponds to 1946. Evidently, and admittedly too, records of the relevant period are not available from the court concerned. For recommending pension under the scheme, a Non Availability of Records Certificate from the authorities concerned along with a

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Personal Knowledge Certificate from a prominent freedom fighter, who has proved jail suffering of a minimum two years is required. The definite stand taken by the respondents is that the petitioner failed to produce valid documentary evidence as stipulated under the scheme. Therefore, this Court is of the view that the writ petition can be disposed of permitting the petitioner to produce relevant records in support of his claim before the 2nd respondent within a time frame.

Therefore, the writ petition is disposed of permitting the petitioner to produce relevant records in support of his claim before the 2nd respondent within a period of one month from today. In the event of production of those documents, the application shall be processed and forwarded to the 1st respondent, who shall consider the claim of the petitioner in accordance with law.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-