

IN THE HIGH COURT OF KERALAAT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 22386 of 2009 (P)

PETITIONER:

T.SAROJINI, W/O.LATE VADAVATHI BHARATHAN,
SEEPURAM.P.O., KATHIROOR
THALASSERY, KANNUR.

BY ADVS.SMT.K.K.CHANDRALEKHA
SRI.GOPAKUMAR G. (ALUVA)

RESPONDENT(S):

1. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO GOVERNMENT, GENERAL ADMINISTRATION
(FFPB) DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. DISTRICT COLLECTOR, COLLECTORATE,
KANNUR.

BY GOVERNMENT PLEADER SRI P.V.ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.22386/2009

PETITIONER'S EXTS:

- EXT.P1: COPY OF APPLICATION FOR FREEDOM FIGHTERS PENSION BEFORE THE 2ND RESPONDENT DT.18.3.97.
- EXT.P2: COPY OF REMINDER BEFORE THE HON'BLE CHIEF MINISTER.
- EXT.P3: COPY OF ORDER DT.4.12.2006 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4: COPY OF REPRESENTATION BEFORE THE 1ST RESPONDENT.
- EXT.P5: COPY OF ACKNOWLEDGEMENT CARD EVIDENCING RECEIPT OF EXT.P4 REPRESENTATION BY THE 1ST RESPONDENT.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.22386 Of 2009

DATED THIS THE 29th DAY OF MAY, 2015

JUDGMENT

The petitioner is the widow of Vadavathi Bharathan, a freedom fighter of erstwhile Malabar District, Madras State. Bharathan submitted Ext.P1 application for freedom fighter's pension before the second respondent, which was followed by Ext.P2 reminder. He died on 19.6.1999. Thereafter the petitioner submitted an application before the first respondent seeking pension as the dependant widow of the deceased freedom fighter. The first respondent by Government letter dated 12.7.2004 forwarded the petitioner's application for Kerala Freedom Fighter's Pension to the second respondent. The application was got enquired through the Tahsildar, Thalassery and the report dated 28.1.2006 of the Tahsildar and the documents produced by the petitioner were placed before the District Advisory Committee held on 29.3.2006. The District Level Committee examined the petitioner's case and decided to make a favourable recommendation to the Government, pursuant to which a detailed report was

submitted along with a letter dated 7.6.2006 of the second respondent, which resulted in Government order dated 9.8.2006 according sanction of Kerala Freedom Fighter's Pension to the petitioner. Pursuant to that Government order, the second respondent by Ext.P3 accorded sanction for payment of Kerala Freedom Fighter's Pension to the petitioner who is the widow of late Bharathan, as family pension, with effect from the date of order, i.e., from 4.12.2006 till her death or remarriage, whichever is earlier.

2. On receipt of Ext.P3 order, the petitioner made Ext.P4 representation before the first respondent requesting that appropriate orders may be passed for sanctioning payment of pension with effect from 18.3.1997, the date on which Ext.P1 application was originally made by late Bharathan. It is aggrieved by the non-consideration of Ext.P4 representation, the petitioner has approached this Court in this Writ Petition seeking a writ of mandamus commanding the first respondent to consider Ext.P4 representation and grant freedom fighter's pension to her from 18.3.1997 onwards.

3. Heard the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

4. The issue raised in this writ petition is covered against the petitioner in the decision of a Division Bench of this Court in **Pauly K.P. v. State of Kerala (2008 (1) KLT 933)** in which a Division Bench of this Court, after referring to Rule 18 of the Kerala Freedom Fighter's Pension Rules, 1971, held that the pension sanctioned under the aforesaid Rules will be payable only from the date of issue of the sanction order. Paragraphs 9 and 13 of the said judgment read thus:

9. In the instant case, R.18 of the Pension Rules clearly stipulates that the pension sanctioned under the Pension Rules will be payable only from the date of issue of the sanction order. The Pension Rules provide sufficient safeguards, if for any reason, there is delay in considering the application filed by a freedom fighter for grant of freedom fighters pension. If a freedom fighter is of the opinion that there is unreasonable delay on the part of the authorities under the Pension Rules in considering the claim of the freedom fighter for grant of pension, either he can make a representation before the District Collector before whom the application is submitted for grant of freedom fighters pension, or in the alternative, approach the appropriate forum for appropriate directions. In fact, in R.20 of the Pension Rules, a specific procedure is provided for making of enquiries, the moment an application is filed by a freedom

fighter for grant of freedom fighters pension. Under sub-cl.(x) of R.20 of the Pension Rules, it is made clear, that on receipt of an application by the District Collector from the freedom fighter, the Collector will watch whether the Tahsildar's report is received within a reasonable time and issue reminders, in case the report is not received within a reasonable time.

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13. In our opinion, since sufficient safeguards are provided in the Pension Rules itself for consideration and disposal of an application filed by the freedom fighter, we do not see any arbitrariness in R.18 of the Pension Rules."

5. In the case on hand, the family pension under the Kerala Freedom Fighter's Pension Scheme was sanctioned to the petitioner based on an application submitted much after 18.3.1997. As evident from Ext.P3, after processing the application at different levels in terms of the Scheme provided under the Rules, the District Advisory Committee recommended her case to the Government. Thereafter, on the strength of the sanction accorded by the Government, the second respondent issued Ext.P3 order dated 4.12.2006 granting family pension to the petitioner under the aforesaid Scheme. In view of the specific stipulation in Rule 18 of the Pension Rules, the petitioner is entitled to get payment of pension only with effect from the

date of issue of Ext.P3 sanction order. In such circumstances, the reliefs sought for in this writ petition cannot be sustained.

In the result, this writ petition fails and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA,
JUDGE

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