

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 33550 of 2010 (P)

PETITIONER :

**V. LAKSHMI AMMA, AGED 76 YEARS,
W/O.LATE SANKARAN NAIR, SIVAPURI HOUSE, (KARIYAT),
MOKAVOOR, POST ERANHIKAL (VIA) ELATHUR,
KOZHIKODE DISTRICT-673 303.**

**BY ADVS.SRI.AVM.SALAHUDIN
SMT.P.Y.SHEHEERA
SRI.A.VISWANATHAN**

RESPONDENT :

**UNION OF INDIA,
REP. BY SECRETARY, MINISTRY OF HOME AFFAIRS,
LOK NAYAK BHAVAN, KHAN MARKET, NEW DELHI-110 003.**

**BY ASSISTANT SOLICITOR GENERAL SRI.N.NAGARESH
BY ADDL.CENTRAL GOVT. STANDING COUNSEL SRI.P.M.M.NAJEEB KHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 COPY OF THE ORDER NO.C7.2060/74FFP DATED 26/02/1976 ISSUED BY DISTRICT COLLECTOR, KOZHIKODE SANCTIONING FREEDOM FIGHTER PENSION TO LATE K SANKARAN NAIR.
- EXT.P2 COPY OF THE LETTER DATED 16/6/1993 ISSUED BY ACCOUNTANT GENERAL (AME) KERALA INCORPORATING NAME OF THE PETITIONER AS A BENEFICIARY ELIGIBLE FOR FAMILY PENSION AS A WIFE OF K.SANKARAN NAIR.
- EXT.P3 COPY OF THE LETTER NO.3103/FFP/A2/99GAD DATED 17/7/1999 ISSUED TO THE SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, BY THE GOVERNMENT OF KERALA RECOMMENDING FREEDOM FIGHT PENSION IN THE CASE OF LATE K.SANKARAN NAIR.
- EXT.P4 COPY OF THE DEATH CERTIFICATE OF LATE K.SANKARAN NAIR.
- EXT.P5 COPY OF THE LETTER DATED 26/6/2000 ISSUED BY GOVERNMENT OF INDIA TO LATE K.SANKARAN NAIR REJECTING PENSION UNDER SSS PENSION SCHEME.
- EXT.P6 COPY OF THE LAWYER NOTICE DATED 5/9/2009 SENT BY THE PETITIONER TO THE RESPONDENT.

RESPONDENT'S EXHIBITS:

- EXT.R1 COPY OF THE SALIENT FEATURES OF SWATANTRATA SAINIK SAMMAN PENSION SCHEME, 1980 ISSUED BY THE GOVT. OF INDIA.

/TRUE COPY/

P.S.TO JUDGE

sts

K. Vinod Chandran, J

W.P.(C).No.33550 of 2010-P

Dated this the 12th day of August, 2015.

JUDGMENT

The petitioner is aggrieved with Exhibit P5, by which the claim raised by the petitioner's husband for Swatantrata Sainik Samman Pension [for brevity "SSS Pension"], before the Central Government, was declined.

2. The brief facts to be noticed are that, the petitioner's husband is said to have been a Constable in the Malabar Special Police and he claimed to have been dismissed from the said service from 16.04.1946 due to participation in MSP strike for the cause of Freedom Movement. The petitioner's husband was granted State pension, as per Exhibit P1 order. The petitioner's husband made an application for the SSS Pension under the Swatantrata Sainik Samman Pension Scheme, 1980 [for brevity "the Scheme"], within a recommendation from the State Government.

3. The recommendation of the Government of Kerala dated 17.07.1999 is produced herein as Exhibit P3. The same was declined by Exhibit P5, finding that the petitioner's husband lost his job by reason only of the Company in which he was serving having been disbanded and the same may not fall under the requirement of a loss of job. The said question need not be considered, for the reason that there is gross delay in the above writ petition.

3. Admittedly the order Exhibit P5 challenged herein was issued on 26.06.2000. The same was also sent to the petitioner's husband, who was alive at that point of time. The petitioner's husband is said to have expired on 10.06.2005, as per Exhibit P4 death certificate. The petitioner claims that she was not aware of Exhibit P5 and, hence, filed the above writ petition in the year 2010. The petitioner's husband having been served with a copy of the rejection order in the year 2000 itself and he having survived for another five years after the receipt of the said order, it cannot now be contended that the petitioner was not aware of the

same. The petitioner's husband having not challenged the order at Exhibit P5, the petitioner cannot rake up the issues which have become final.

In the light of the above, the writ petition would stand dismissed. No costs.

Sd/-
K.Vinod Chandran
Judge.

Vku/-

[true copy]