

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 14.07.2015

Delivered on : 22.07.2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.15901 of 2015

and

M.P.No.1 of 2015

R.Senbagam

... Petitioner

Vs.

1. The Collector of Nagapattinam District,
District Collectorate,
Nagapattinam District-611 001.
Tamil Nadu.

2. The Special Tahsildar,
(Social Security Scheme)
Taluk Office,
Nagapattinam-611 001.
Tamil Nadu.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records in respect of the order R.C.No.2739/2005/A8 dated 24.04.2015 of the second respondent informing the petitioner that the old age pension under the Indira Gandhi National Old Age Pension Scheme ("IGNOAPS") that was being paid to the petitioner from 19.11.2007 has been stopped from 1st October, 2014 and to quash the same for its being perverse, arbitrary and illegal and to direct the respondents to continue to pay the old age pension under IGNOAPS through out the petitioner's life as has been ordered by this Court on 23.04.2010 in W.P.No.24745 of 2009 with cost and compensation for injury.

For Petitioner : Mr.R.Muthukrishnan

For Respondents : Mr.M.Digvijayapandian
Additional Government Pleader

O R D E R

The petitioner is a senior citizen aged about 91 years and would submit that the scope of National Old Age Pension Scheme [in short "NOAPS"] was expanded by including all senior citizens who are above 65 years of age and living below the poverty line and are eligible to get Old Age Pension, irrespective of the fact whether they are destitute or not. The Government of Tamil Nadu, by issuing G.O.(Ms) No.217, Social Welfare and Nutritious Meal Programme (SW6) Department dated 16.11.2007, had launched Indira Gandhi National Old Age Pension Scheme [in short "IGNOAPS"] with effect from 19.11.2007. The petitioner, during November 2007, applied for grant of monthly pension under the above said scheme on the ground that she is living below the poverty line and she do not have any source of income. The petitioner would further state that her husband predeceased her 40 years back and her elder son, namely Mr.R.Muthukrishnan (learned counsel appearing for the petitioner) and her younger son, namely Mr.Ramachandran is employed abroad and her daughter is married and living with her husband and she is residing at Door No.3/277, Main Road, Puragramam, Thittacherry, Nagapattinam District, owned by her younger son, namely Mr.Ramachandran.

2. The petitioner was not granted Old Age Pension inspite of her eligibility and therefore, she was constrained to approach this Court by filing W.P.No.24745 of 2009 and this Court, vide order dated 23.04.2010, while disposing of the said writ petition has taken note of the fact that an order was already passed by the third respondent/District Collector, Nagapattinam District to sanction Old Age Pension to the petitioner with effect from 01.12.2009 for her life, has passed an order directing the respondents 2 and 3, namely the Additional Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Meal Programme Development Department and the Collector of Nagapattinam District, to give effect for the payment of Old Age Pension with effect from 19.11.2007 instead of 01.12.2009. Accordingly, the petitioner was sanctioned with Old Age Pension with effect from 19.11.2007 and she was paid pension till 30.09.2014 and all of a sudden, the second respondent, without issuing any notice whatsoever, has stopped the payment of Old Age Pension from October, 2014. The petitioner, aggrieved by the said act on the part of the second respondent, came forward to file this writ petition.

3. Mr.R.Muthukrishnan, learned counsel appearing for the petitioner, who is also a son of the petitioner, would vehemently contend that though the sons of the petitioner are well settled in their life, the fact remains that the petitioner is not having any source of income and she is residing in the house of her second son and the act of the second respondent in suddenly stopping the

payment of pension from October, 2014 is per se illegal and unsustainable and prays for restoration of the Old Age Pension with further direction to pay the arrears.

4. Per contra, Mr.M.Digvijayapandian, learned Additional Government Pleader has drawn the attention of this Court to the counter affidavit filed by the second respondent and would submit that as per the instructions of the Government, 100% verification on Old Age Pensions throughout Nagapattinam District was carried out during August, 2014 and the petitioner was found to be ineligible and she is residing in the premises owned by her second son and she is also well supported by her sons and daughter. It is the further submission of the learned Additional Government Pleader that the Government has passed G.O.Ms.No.25, Social Welfare and Nutritious Meal Programme Department dated 17.04.2015, in and by which eligibility criteria has been changed and as per the revised eligibility criteria, concerned person shall be 60 years and above and must be a destitute and shall belong to below poverty line family and in respect of the petitioner, admittedly she is well supported by her two sons and daughter and therefore, she is ineligible to get Old Age Pension and therefore, decision has been taken to stop the payment of pension, vide proceedings dated 24.04.2015 and in the light of change of norms for eligibility criteria, prays for dismissal of this writ petition.

5. The petitioner has also filed a rejoinder to the counter affidavit and would submit that in the light of the orders passed in W.P.No.24745/2009, she is eligible to get pension throughout her life and in utter violation of the principles of natural justice, Old Age Pension payable to the petitioner has been abruptly stopped from October, 2014 and also placed reliance upon the judgment of the Hon'ble Supreme Court in Charanjit Kaur v. Union of India [AIR 1994 SC 1491].

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. It is not in serious dispute that the two sons of the petitioner are well settled in their life, one son being a lawyer and another is employed at abroad and admittedly, the petitioner is residing in the house owned by her younger son. The learned counsel appearing for the petitioner has placed heavy reliance upon the order dated 23.04.2010 made in W.P.No.24745 of 2009; however, the Social Welfare and Nutritious Meal Programme Department of the Government of Tamil Nadu has brought forth amendment to Rule 5 of the Madras Old Age Pension rules and it is relevant to extract the same:

"

Amendments

The following definition of 'destitute' shall be substituted to Rule 5 of the Madras pension Rules:

A "Destitute" is a person,
(a) without any income or source of income,
(b) without any income or source of income and owning fixed assets valuing less than Rs.50,000/- who have no relatives of 20 years of age and over of the following categories:-

- i) Son;
- ii) Son's son; and
- iii) husband/wife and other related persons, who normally live together;

Provided that a person will be deemed to be a destitute if all the relatives falling within the categories specified above are

(a) themselves below poverty line, such a fact being proved to the satisfaction of the sanctioning authority; or

(b) continuously missing and the sanctioning authority has satisfied him/herself by such enquiry as he/she deems necessary that the relatives are so missing;"

The said department has also issued G.O.(Ms).No.26 dated 17.04.2015 taking into consideration the proposal of the Additional Chief Secretary/Commissioner of Revenue Administration and revised the eligibility criteria and as per the same, pension under the IGNOAPS is payable to a person who is 60 years and above and he/she shall be a destitute and must belong to below poverty line family.

8. In the light of the amendments made to Rule 5 of the Madras Old Age Pension rules coupled with G.O.(Ms).No.26 dated 17.04.2015, the petitioner is not eligible to get Old Age Pension. Admittedly, no challenge has been made to the amendments made to Rule 5 of the Madras Old Age Pension rules as well as G.O.(Ms).No.26 dated 17.04.2015 issued by the Social Welfare and Nutritious Meal Programme (SW6(1)) Department and therefore, in the light of the same, this Court is not in a position to grant any relief to the petitioner.

9. In the result, this Writ Petition is dismissed. If the petitioner is so advised, she is at liberty to challenge the amendments made to Rule 5 of the Madras Old Age Pension rules and G.O.(Ms).No.26, Social Welfare and Nutritious Meal Programme (SW6(1)) Department dated 17.04.2015, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Collector of Nagapattinam District,
District Collectorate,
Nagapattinam District-611 001.
Tamil Nadu.
2. The Special Tahsildar,
(Social Security Scheme)
Taluk Office,
Nagapattinam-611 001.
Tamil Nadu.

+1cc to Mr.R.Muthukrishnan, Advocate, S.R.No.36946

W.P.No15901 of 2015
and
M.P.No.1 of 2015

MSM(CO)
CA(03/08/2015)



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