



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.6412 of 2016

A.Duraisamy Thevar

... Petitioner

Vs.

1. The Secretary to Government,
Public (Political Pension) Department,
Secretariat, Chennai - 600 009.

2. The District Collector,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent Vide Na.Ka.No.Y4/9832/2015, dated 12.01.2016 to direct the respondents to issue freedom fighter pension to the petitioner at the earliest.

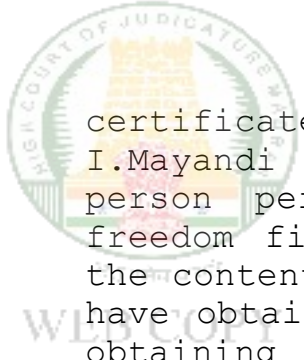
For Petitioner : Mr.K.P.Narayana Kumar
For Respondents : Mr.C.Selvaraj
Special Government Pleader

O R D E R

The petitioner, a freedom fighter is aggrieved against the order of the second respondent, dated 12.01.2016 denying his claim for freedom fighter pension by the State Government.

2. The petitioner who is now aged about 95 years, has sought the disbursement of freedom fighter pension by contending that he voluntarily participated in the Quit India Movement; that he was declared as a proclaimed offender and that he was remained self concealed underground for more than six months for the period from 15.12.1942 to 14.06.1943. In support of his contention, the petitioner submitted two certificates issued by two freedom fighters, namely, A.M.Lakshmanan and I.Mayandi Bharathi, who are receiving the freedom fighter pension from the State Government.

3. The second respondent rejected the request of the petitioner for two reasons. First reason being that the

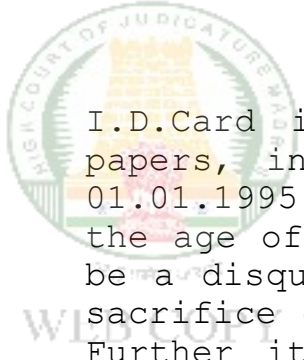


certificate issued by one of the freedom fighter, namely, I.Mayandi Bharathi is not acceptable, since such person is not a person permitted to issue such certificate along with other freedom fighter, namely, A.M.Lakshmanan. In other words, it is the contention of the second respondent that the petitioner should have obtained the certificate from one A.C.Periyasamy, apart from obtaining the certificate from A.L.Lakshmanan. The second reason is that the petitioner had not completed 18 years at the time of the freedom struggle.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the records placed before this Court.

5. It is not in dispute that the petitioner is now aged 95 years. The second respondent has also not doubted about the genuineness of the two certificates issued by those two freedom fighters, namely, A.M.Lakshmanan and I.Mayandi Bharathi. In those certificates, it is clearly stated that the petitioner herein remained underground for more than six months for the period from 15.12.1942 to 14.06.1943 and that he was declared as a proclaimed offender. When those two persons, admittedly receiving the freedom fighter pension from the State Government, have certified to the above effect, I do not think that the second respondent is justified in rejecting the claim of the petitioner on the reason that he has not obtained the certificate from a particular freedom fighter, namely, the said A.C.Periyasamy. Even otherwise, the certificate issued by one of the freedom fighter, namely, A.M.Lakshmanan is acceptable to the second respondent. What is stated by the said freedom fighter, was only reiterated by the other freedom fighter, namely, Mayandi Bharathi, who is also, admittedly, receiving the freedom fighter pension. Needless to say that while considering the claim of the persons like the petitioner seeking for the freedom fighter pension, technical objections or difficulties should not stand in the way of the authorities in extending such financial assistance to those persons who fought for the freedom of this country. It is not as though a charity is being shown on those selfless freedom fighters. On the other hand, it is the great honour to be conferred on them as a reciprocal obligation with humble gesture.

6. While considering the other objection, namely, the age of the petitioner at the time of participation in the freedom struggle is concerned, it is seen that at the relevant period in which he has gone underground, would certainly indicate that he would have completed the age of 18 years. Here again I would like to point out that this hyper technical objection raised by the second respondent cannot stand in the way of disbursing the freedom fighter pension to the petitioner, more particularly, when such objection is not sustainable by considering the factual aspects of the matter including the verification of the Votor



I.D.Card issued to the petitioner annexed in the typed-set of papers, indicating that the petitioner was aged 75 years as on 01.01.1995. Even assuming that the petitioner had not completed the age of 18 years at the relevant point of time, that can never be a disqualification, rather it has to be considered as a great sacrifice of an young boy in taking part in the freedom struggle. Further it is seen that similar objection raised by the second respondent in the case of another freedom fighter, namely, R.Paramasivam who filed a Writ petition before this Court in W.P. (MD)No.13594 of 2012, was rejected by this Court while allowing the said Writ petition.

7. Considering all these aspects, this Court is of the view that the petitioner is entitled to succeed in this Writ petition. Accordingly, the Writ petition is allowed and the impugned order is set aside. The respondents are directed to grant the freedom fighter pension to the petitioner and disburse the same with effect from the date of his application and the arrears of such payment shall be paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The order granting freedom fighter's pension shall also be served on the petitioner in person at his door steps apart from sending a copy to him through any other mode. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Public (Political Pension) Department),
Secretariat, Chennai - 600 009.
2. The District Collector,
Madurai District.

+1cc to Mr.K.P.NARAYANA KUMAR, Advocate Sr.No.81160
+1cc to Spl.Government Pleader Sr.No. 81382

PMU

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W.P. (MD) No.6412 of 2016
15.12.2016