

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.11418 of 2017

and

W.M.P.No.12367 of 2017

A.Parvathi

.. Petitioner

Vs.

The Government of Tamil Nadu  
represented by Additional Secretary,  
Public (Political Pension) Department,  
Secretariat,  
George Fort,  
Chennai.

.. Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent to issue the freedom fighters pension arrears of the petitioner.

For Petitioner: Mr.V.Nandagopalan

For Respondent : Mr.P.Senthilvel

Government Advocate for R1 and R2

O R D E R

The petitioner, a 79 years old widow of a freedom fighter, seeks for a direction to the respondent to pay freedom fighter pension arrears by contending that such pension being paid in pursuant to an order passed on 04.10.2016, is to be paid from the date of the application of the petitioner's husband, namely 20.02.1982 and not from the date of the said order.

2. When this matter was taken up for admission on 01.06.2017, the learned Special Government Pleader took notice and sought two weeks time to file counter. Thereafter, the matter is taken up today for further hearing. No counter affidavit is filed, however, this Court is not inclined to grant further time, as the issue involved in this case lies in a narrow compass, which can be disposed of even without the counter affidavit.

3. There is no dispute to the fact that the petitioner, being the widow of a freedom fighter, is receiving the freedom fighter family pension in pursuant to an order passed on 04.10.2016 by the respondent. In fact, the very same petitioner approached this Court earlier and filed a Writ petition in W.P.No.39772 of 2015 seeking for mandamus directing the respondent therein to dispose of the representations dated 17.02.2004 and 03.12.2014 of the petitioner wherein this Court passed an order on 17.12.2015 as follows:

"By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner's husband, who was a freedom fighter, during his lifetime, made several representations, to the respondents for disbursement of freedom fighter pension, However, there was no action taken. After his demise, the petitioner made a representation on 20.02.2013 to the Chief Secretary and the same was forwarded to the 3rd respondent, who asked the petitioner to appear before the Collector of Thiruvallur, the 1st respondent herein. As there was no further progress, the petitioner, once again made another representation to the 1st respondent on 03.12.2014, in this regard. However, there was no response from the respondents. Hence, the petitioner has come forward with the present writ petition.

3. A perusal of the typed set of papers would show that though the petitioner has been agitating the issue right from 17.02.1982 onwards, she is yet to get the relief, even after lapse of 3 decades. Therefore, a direction is issued to the 1st respondent to consider the representation of the petitioner dated 03.12.2014, in the light of the letter of the 3rd respondent in Letter No.6839/P.O.3/2013-2 dated 03.04.2013 and pass appropriate order on the same, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed accordingly. No costs."

4. In pursuant to the above said order, the respondent herein passed the order dated 04.10.2016 granting the pension to the petitioner, however, from the date of the said order. A perusal of the above said order passed by this Court in the writ petition in W.P.No.39772/2015 dated 17.12.2015, as extracted supra, would undoubtedly indicate that the petitioner's husband

was agitating the matter for getting Freedom Fighter Pension from the year 1982 onwards by making an application on 20.02.1982. In fact, a copy of the said application enclosed in the typed set of papers, would indicate that the same was received by the concerned Office on 20.02.1982 itself. Therefore, it is evident that the petitioner's husband made the application on 20.02.1982 and fought for getting the pension for nearly three decades and died without getting the same, even though he was successful in getting the freedom of this Country as a freedom fighter. This Court, by taking note of the said plight of the petitioner's husband as well as that of the petitioner, had issued the above direction to the respondent herein to consider the representation of the petitioner and in pursuant to such direction only, the said order dated 04.10.2016 came to be passed, however, by granting the pension only from the date of the order. It is evident that the delay in passing the order on the application for the pension, is not due to the fault of the petitioner or her husband and on the other hand, it is only due to the fault of the respondent. Therefore, I do not find any justification on the part of the respondent in granting the pension only from the date of the order, especially, when the application of the petitioner's husband was made as early as on 20.02.1982. Therefore, in all fairness, the respondent should have granted the pension with arrears commencing from the date of the application. Accordingly, this writ petition is allowed and the respondent is directed to pay the arrears of pension to the petitioner commencing from 20.02.1982. Such exercise shall be done by the respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

vsi

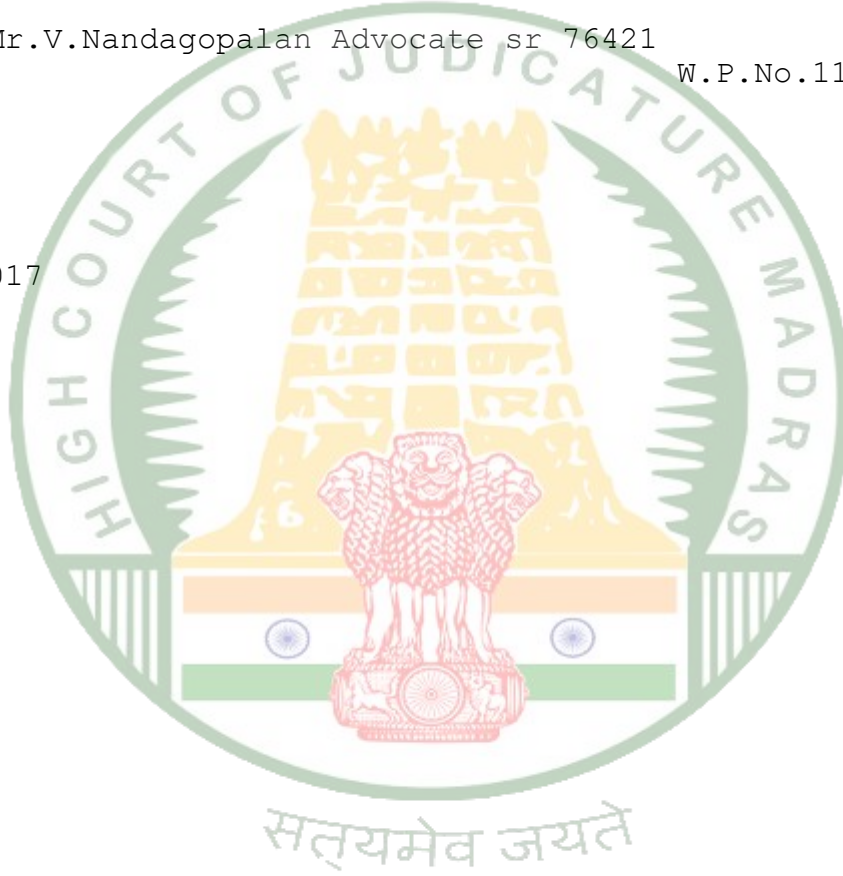
To

The Additional Secretary,  
Public (Political Pension) Department,  
Secretariat,  
George Fort,  
Chennai.

+1 cc to Mr.V.Nandagopalan Advocate sr 76421

W.P.No.11418 of 2017

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