

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NOS.20298 & 20299 OF 2003

- 1.P.R.Palaniappan (deceased)
- 2.P.Alagammai (2nd Petitioner substituted as the legal heir in the place of deceased sole petitioner as per order of court dated 31.1.2013 by TSSJ in WPMP.No.16 of 2013)

...Petitioners in
WP.20298/2003

- 1.V.Sundararaj (deceased)
- 2.S.Rajambal (2nd Petitioner substituted as the legal heir in the place of deceased sole petitioner as per order of court dated 31.1.2013 by TSSJ in WPMP.No.17 of 2013)

...Petitioners in
WP.20299/2003

Vs

1. State of Tamil Nadu, rep.by its Secretary to Government, Public (Political Pension IV) Department, Fort.St.George, Chennai-9.
2. The Collector of Pudukottai District, Pudukottai.

...Respondents
in both the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records comprised in (i) Lr.No.17650/A.O.4/2000-1 dated 13.6.2001 of the first respondent, quash the same and consequently direct the respondents to provide pensionary benefits from 05.1.1979 - the date of application of the petitioner (WP.No.20298 of 2003); and (ii) Lr.No.14997/A.O.4/2001-1 dated 16.4.2001 of the first respondent, quash the same and consequently direct the

respondents to provide pensionary benefits from 12.10.1983 - the date of application of the petitioner (WP.No.20299 of 2003).

For Petitioners : Mr.P.Seshadri

For Respondents : Mr.A.Zakkir Hussain, GA

COMMON ORDER

These two writ petitions were filed challenging the orders issued by the first respondent on 13.6.2001 and 16.4.2001 respectively, rejecting the claim to sanction State Freedom Fighters' Pension with effect from 05.1.1979 and 12.10.1983 - the respective dates of application of the original writ petitioners. During the pendency of the writ petitions, the original writ petitioners died and therefore, their respective legal heirs were brought on record.

2. Heard the learned counsel on either side.

3. The sole controversy advanced by the learned counsel for the petitioners is that the State Freedom Fighters' Pension was granted to the original petitioners by the first respondent through its orders respectively dated 18.7.2000 and 02.6.2000. But, the benefit of pension was extended to the original petitioners only from the date of issuance of the order. That prompted the original writ petitioners to move these writ petitions seeking the relief of retrospective State Freedom Fighters' Pension from 05.1.1979 and 12.10.1983.

4. The undisputed fact is that the original writ petitioners submitted their respective applications seeking State Freedom Fighters' Pension under the Scheme. It is further admitted that both the original writ petitioners were sanctioned with the State Freedom Fighters' Pension with effect from the date of issuance of the orders respectively dated 18.7.2000 and 02.6.2000.

5. But, the learned Government Advocate appearing for the respondents contended that there was a huge delay in processing the applications, since the original writ petitioners had not cooperated by producing necessary documents enabling the State Government to issue suitable orders. Therefore, the fault is to be attributed to the original writ petitioners and not to the State Government and accordingly, the orders passed by the State Government are justifiable.

6. The learned counsel appearing for the petitioners submitted that pension is a right, more specifically a property right and it is not a bounty. According to the learned counsel,

once the Government sanctioned the pension and confirmed the eligibility, it should be from the date, on which, they are eligible.

7. Though the original writ petitioners are eligible from the date, on which, the scheme was introduced, the learned counsel for the petitioners has no serious objection to sanction the pension at least from the respective dates of applications, which would be reasonable and would mitigate the circumstances. This Court is of the view that the pension is a deferred wage and in this case, it is a freedom fighters' pension and the Governments, both Central and State, to honour the freedom fighters, formulated the Scheme and granted freedom fighters' pension. No doubt, all the freedom fighters of this great nation are to be honoured and their right of pension cannot be denied on technical grounds.

8. The documents in support of the factum regarding participation in Freedom Fighting or their involvement and imprisonment, are all necessary, which shall be produced for the purpose of sanctioning of the Freedom Fighters' Pension. In the case on hand, it is an admitted fact that the original writ petitioners satisfied all the conditions required for sanctioning the pension and accepting the same, the State Government has actually sanctioned pension respectively vide proceedings dated 18.7.2000 and 02.6.2000.

9. Such being the factual matrix of the case, this Court is of the view that the Government ought to have sanctioned the Freedom Fighters' Pension at least from the respective dates of applications of the petitioners. On going through the counters filed in both the writ petitions, it is seen that the original writ petitioners submitted their respective applications seeking State Freedom Fighters' Pension on 25.2.1987 and 24.12.1998. Therefore, the original writ petitioners are eligible for the Freedom Fighters' Pension with effect from the respective dates stated supra.

10. Once the pension is sanctioned, the respondents cannot disburse the benefit from the date of the order, which will have no nexus. Therefore, this Court is of the view that the impugned orders of rejection passed on 13.6.2001 and 16.4.2001 are liable to be set aside.

11. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the respondents are directed to sanction the State Freedom Fighters' Pension with effect from the date of applications of the original petitioners respectively dated 25.2.1987 and 24.12.1998 and disburse to the legal heirs of the original writ petitioners, the arrears of pension for the differential period from the dates of respective

applications till the date of actual sanction, within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

RS

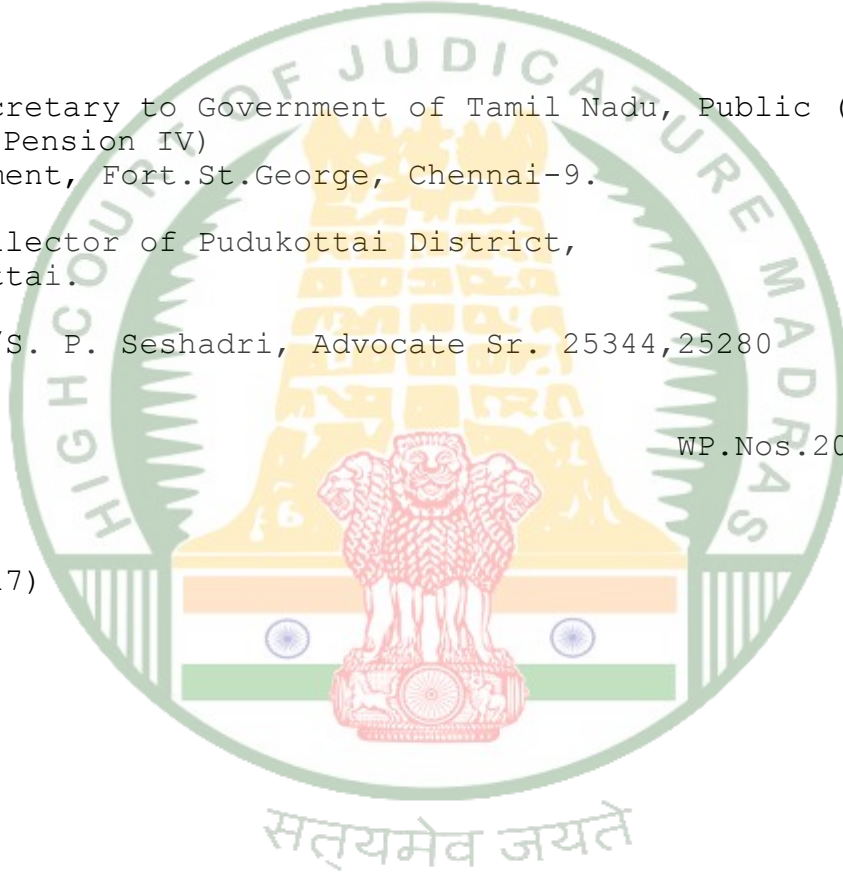
To

1. The Secretary to Government of Tamil Nadu, Public (Political Pension IV) Department, Fort.St.George, Chennai-9.
2. The Collector of Pudukottai District, Pudukottai.

+2cc to M/S. P. Seshadri, Advocate Sr. 25344,25280

WP.Nos.20298 & 20299
of 2003

SS(CO)
VR(9/5/2017)



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