

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.20859 of 2016
and
W.M.P.No.17872 of 2016

Rahima Bivi

.. Petitioner

Vs.

1. Under Secretary to Government
of Tamil Nadu,
Public (Political Pension)
III Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Trichy District,
Trichy.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 1st respondent vide letter No.13337/A.0.2/2016-1 dated 12.04.2016 and quash the same and consequently direct the 1s respondent to pay the arrears of dependent freedom fighter pension payable from the next day of the death of the petitioners father Samsukani, i.e, on 13/12/2009 onwards till the G.O. issued on .4.11.2015

For Petitioner: Mr.T.Muruganantham

For Respondents: Mr.R.Govindasamy,

Special Government Pleader

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O R D E R

The petitioner is aggrieved against the order passed by the 1st respondent dated 12.04.2016 wherein and whereby her request for paying dependent freedom fighter pension from the next day of the death of the petitioner's father, Samsukani, was rejected on the reason that the same is not permissible.

2. Heard both sides.

3. There is no dispute to the fact that the petitioner is receiving the dependent freedom fighter pension from the respondents in pursuant to issuance of an order dated 05.11.2015. The grievance of the petitioner is that the arrears should be paid not from the date of the order and on the other hand, it is to be paid from the next day of death of the petitioner's father. In support of her claim, the petitioner produced another order dated 19.07.2011 issued in favour of one M.Pancheel Beer being the dependent of another deceased freedom fighter namely, N.Mohamed Gani. In that order, it is stated that such pension is paid with effect from the next day of the death of the said freedom fighter, namely N.Mohamed Gani.

4. Learned Special Government Pleader appearing for the respondents strongly relied on the counter affidavit filed by the respondents to contend that the petitioner is already receiving the widow pension under the Social Security Scheme and therefore, she is not entitled for the dependent freedom fighter disabled family pension.

5. I do not think that the respondents, by way of their counter can improve the impugned order in this writ petition which only states that such pension cannot be granted from the next day of death of the petitioner's father. In other words, the impugned order does not state or indicate that the petitioner is not at all entitled to the subject matter pension, as stated in the counter affidavit. It is also stated that the sanctioning order already passed on 05.11.2015 in favour of the petitioner is still in force. When that being the factual position, the only question that is to be seen is as to whether the petitioner is entitled to get the arrears of such pension from the next day of death of her father or from the date of issuance of the said order i.e., on 05.11.2015.

6. I have already pointed out that in respect of a similar claim, the present respondents have issued an order dated 19.07.2011 granting pension from the next day of the death of the freedom fighter therein. Therefore, the respondents cannot apply different yardstick and discriminate the petitioner and she should also be given similar benefits. Accordingly, I find every justification to interfere with the order passed by the 1st respondent. Thus, the writ petition is allowed and the impugned order is set aside. Consequently, the respondents are directed to pay the arrears of dependent freedom fighter pension to the petitioner from the next day of the death of the

petitioner's father, namely Samsukani. The respondents shall make the payment 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)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Under Secretary to Government of Tamil Nadu,
Public (Political Pension)III Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Trichy District,
Trichy.

+ 1 cc to Mr. T. Murugananthan, Advocate SR.72288
+ 1 cc to Government Pleader Sr.72622

W.P.No.20859 of 2016

CS-V
EU(11/10/2017)

सत्यमेव जयते

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