

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DURAISWAMY

W.P.No.33308 of 2016

Perumal

.. Petitioner

Vs

1. The State of Tamil Nadu,  
Rep. by Secretary to Government,  
Public (Political Pension-4) Department,  
Chennai - 600 009.
  2. The District Collector,  
Dharmapuri District,  
Dharmapuri.
  3. The Revenue Divisional Officer,  
Dharmapuri.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings passed in O.Mu.21493/2010/Pa2 dated 19.07.2016 on the file of the 2<sup>nd</sup> respondent herein, quash the same and consequently direct the respondents herein to grant the Freedom Fighters pension to the petitioner herein with interest.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.S.V.Duraisolaimalai  
Additional Government  
Pleader.

WEB COPY

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings passed by the second respondent, dated 19.07.2016, to quash the same and consequently direct the respondents herein to grant Freedom Fighters pension to the petitioner with interest.

2. It is a case of the petitioner that he is a Freedom Fighter and a scheme was introduced both by the Central Government of India and the State Government of Tamil Nadu to grant pension to living freedom fighters and their families and to the families of the martyrs. The petitioner further submitted that, during the freedom struggle, he was arrested and imprisoned at Alipur Camp Jail and he was in incarceration for three months during the period from 30.09.1942 to 30.12.1942. Further, according to the petitioner, after independence, he is leading the life with poverty and found difficulties to meet the day-to-day expenses. Initially he was reluctant to apply for the pension, as he considered the freedom struggle as a sacred duty to the nation.

3. However, in the year 2010, he applied for the pension before the first respondent for granting Freedom Fighters pension and enclosed the necessary documents, like Co-pensioner's Certificate, Non Traceable Certificate issued by the Jail Authorities and further, his request was forwarded to the second respondent for consideration and the second respondent, by his order dated 19.07.2016, rejected the application, against which, the petitioner has filed the Writ Petition.

4. The second respondent, while rejecting the application, found that by appearance, the petitioner seems to be aged 70 years, and therefore, the documents produced by him could not be taken into consideration.

5. On the other hand, the petitioner produced a medical certificate issued by Government Doctor, stating that he was aged 87 years.

6. When the Government Doctor has given a certificate to the effect that the petitioner is aged 87 years, the second respondent could have considered the said document and passed orders or if he had any doubts about the genuineness of the certificate, he could have referred the petitioner to a Government Hospital for ascertaining his age.

7. Therefore, I am of the considered view, that the impugned order dated 19.07.2016, issued by the second respondent, is liable to be set aside and the matter should be remitted to the second respondent for fresh consideration.

8. Accordingly the impugned order dated 19.07.2016 is set aside. The second respondent is directed to consider the case of the petitioner afresh, taking into

consideration all the documents produced by him and in the case of the second respondent having any doubt with regard to the genuineness of the age certificate, the second respondent is directed to refer the petitioner to Government Hospital for getting a certificate with regard to his age. After obtaining age certificate from a Government Hospital, the second respondent shall consider the case of the petitioner, after giving an opportunity to the petitioner, and pass orders on merits of the case and in accordance with law, within six weeks from the date of obtaining the age certificate.

9. With these observations, the Writ Petition is allowed. No costs.

Sd/--  
Asst.Registrar

/true copy/

Sub Asst. Registrar

jer/gsa

To

1. The State of Tamil Nadu,  
Rep. by Secretary to Government,  
Public (Political Pension-4) Department,  
Chennai - 600 009.
2. The District Collector,  
Dharmapuri District,  
Dharmapuri.
3. The Revenue Divisional Officer,  
Dharmapuri.

+1cc to Mr.K.Goviganesan,Advocate sr.22705

+1cc to Government Pleader sr.22821

W.P.No.33308 of 2016

sk(co)  
ss(24/4/2017)